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POPULAR CONTROL OF SENATORIAL ELECTIONS.

WHEN Thomas Paine declared that a constitution did not exist as long as it could not be carried in the pocket, he but expressed the faith of his countrymen in the high efficacy of that new political device, the written constitution, which American example was to commend to the acceptance of other countries. The result of the Federal Convention's long months of labor took form in what has come to be regarded as the typical rigid constitution. It may well be that to its framers the process of amendment, in contrast with that provided by the Articles of Confederation, seemed dangerously relaxed. Nevertheless, to-day, with all the amendments which four generations have added, it may be read through aloud, so Mr. Bryce tells us, in twenty-three minutes. Yet this terse and rigid constitution has served as the frame of government for a great federal state throughout a century of marvelously varied development. He who would understand this anomaly must give diligent heed to the custom, not less than to the law, of the constitution, realizing the vital truth of the dictum of Sir James Mackintosh: "Constitutions grow; they are not made." No written law, to however great authority it may lay claim, can long withstand the determined will of the people, demanding change. "What time cannot blot out, it interprets." And the more rigid the constitution, so much the more inevitable and the more radical becomes this subversive interpretation, when once it comes to be believed that time has made ancient good not only uncouth but dangerous to the public weal.

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Thus, the constitution requires that the senators from the several states be elected "by the legislatures thereof." Gradually, however, the feeling has become widespread that many of the men who in recent years have found their way to the Senate are little disposed to hold themselves responsible to the people or to heed the broader interests of the country. Rightly or wrongly, this imperfect sense of responsibility shown by the senators is being attributed in increasing measure to the process and organ of their election; and the same distrust of state legislatures which has led to the stripping away of many of their powers, through amendments to state constitutions and other forms of direct legislation, now gives rise to the demand that the choice of senators shall no longer be left to the caprice of these legislatures, but that it shall either be taken away from them entirely, or at any rate be subjected to effective popular control. The first of these demands is the basis of the propaganda, first put forward eighty years ago and in the last decade rapidly growing in volume and insistence, that the constitution be so amended as to provide for the election of senators by the direct vote of the people. In many ways this seems both the most direct and the most natural method of securing senatorial responsibility. Yet the obstacles in the way of its attainment have hitherto proved insuperable. They are raised not only by those who have no faith that popular election would prove an effective remedy, but also by those who regard such a change of the constitution as either impossible or inexpedient. Nevertheless, during the past decade, the agitation in favor of this amendment has acquired such force and definiteness that to many its adoption seems close at hand.

But meantime much the same goal has been sought by a very different route. In true English fashion, custom and precedent have here been at work changing the spirit and import of the law while its letter remains ever the same. Sometimes by mere tacit understanding, sometimes by the insistence of political parties, sometimes by the direct and positive interposition of state law, this movement has gone forward with ever-increasing force, until a point has been reached where it is well to take a survey of what has already been done and attempt a forecast

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of what may yet be accomplished in the way of securing popular control over senatorial elections without recourse to amendment of the federal constitution.

Notwithstanding our rigid constitution's decree that the senators from the several states shall be elected by "the legislatures thereof," this act of the legislatures may be deprived of nearly all of its vitality. The election of president offers an illustration of the filching of actual power away from the electors in whom it is vested by law. When James Russell Lowell, a Republican elector for Massachusetts in 1876, was urged to exercise his independence and vote for Tilden, he declined, saying that "whatever the first intent of the constitution was, usage had made the presidential electors strictly the instruments of the party which chose them."[1] The constitution remains unchanged, yet presidential electors recognize that they have been stripped of all discretion. It appears that under certain conditions the election of senators by state legislatures has been and can be made an equally perfunctory affair.

The simplest way in which popular suggestion or pressure may be brought to bear upon the legislature is through the endorsement or nomination of some candidate for senator by the state convention of the party. Thus, in April, 1858, the Democratic convention of the state of Illinois gave its endorsement to the position which Douglas had taken on the Kansas question. Everyone recognized this as equivalent to naming him as the party's candidate for reëlection to the Senate by the legislature which was to meet a few months later. The Republicans promptly put forward Lincoln as his opponent, and at their convention in June passed the following resolution: "Hon. Abraham Lincoln is our first and only choice for United States senator to fill the vacancy about to be created by the expiration of Mr. Douglas' term of office." In point of law the great debate which followed was but an incident in the election of a legislature with which alone rested the power of electing a senator, but the whole country knew who was to be senator as soon as the votes for the members of the legislature had been

[1] W. D. Howells, in *Scribner's Magazine*, vol. 28., p. 373.

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counted. The issue between these two candidates had been so dominant, the people's will so directly expressed, that doubt or hesitation was out of the question. Four years later, Charles Sumner had lost favor with certain elements of the Republican party in Massachusetts, on the eve of the expiration of his second term. His adherents, therefore, were determined that the party should be pledged to his support, and in the state convention they secured the adoption, not without opposition but with much enthusiasm, of a complimentary resolution nominating him for reëlection. In the legislature his election followed without opposition and as a matter of couase.

Yet this method does not always yield assured and satisfactory results. In both cases already cited only two great parties were pitted against each other and the issue between them was clearly drawn. But in the more tangled political conflicts of recent years, where parties are split into factions and where issues are purposely blurred, the skirmish in the convention by no means decides the campaign. When the legislature meets, the chances are that no one of the convention-endorsed candidates will secure a clear majority on the first ballot, and in the attempts to form coalitions the restraints of the convention's instructions soon get relaxed. Even if the man of the convention's choice is finally elected, it is only after a bitter contest, in which charges of bad faith and corruption are freely exchanged. Precisely such an experience, for example, was had in the Minnesota election of 1893, in the hard-fought election of the late Senator Cushman K. Davis, and public dissatisfaction found expression in such editorial comment as this:

> When the legislators refuse to vote for a candidate who has been indorsed by the people, by the party convention and the united party action, and for such refusal are able to offer not a syllable of objection to the candidate's moral and intellectual fitness, it is time such men were not given power to defeat the people's will.[1]

Except in states where one united party has an overwhelming majority, and until the choice of senator comes to be the

[1] *Minneapolis Tribune*, January 21, 1893.

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dominant issue in the election of members of the legislature, they will therefore continue, whether for good or ill, to exercise not a little independence of convention restraints, to the occasional confounding of the people's best hopes and most confident expectations. Moreover, it must not fail to be observed that, while the designation or endorsement of a senatorial candidate may under certain conditions amount to his virtual election, it involves not one whit of genuine popular control of senatorial elections, unless the party machinery in that state is so contrived and so operated as to ensure a trustworthy expression of the people's choice. Otherwise it amounts merely to the choice of senator by a servile convention at the dictation of the ring or of the boss, and the last state of that election is worse than the first.

In recent years no other department of political legislation of the several states has been subject to such restless change as that relating to the nomination of candidates for public office. Repeated and painful experience of the abuses of party machinery, and in particular of the delegate nominating convention, has led to a determined movement for the securing of the direct primary. Throughout the country the dominant tendency has become to accord to the people, in form at least, the right and the opportunity to share in the choice of men for the public service. Although the senatorship lies outside the state system, direct recourse to the people in the primaries for the selection of senatorial candidates finds a precedent as early as 1890. Again, as in the endorsement of senatorial candidates by party conventions, it was Illinois that set the example. Says Senator Palmer:

> Election of senators by a popular vote, which by common consent should control the members of the legislature, was not novel to the people of Illinois, for they were familiar with the great contest of 1858.
>
> In 1890 the state committee of the Democratic party, in connection with the call of the state convention, put two propositions before the voters: (1) the propriety of a nomination by the proposed state convention of a candidate for senator, to be voted for by the people at the next election, as directly as possible under the provisions of the constitution; and (2) the selection of a candidate for senator, if it should be determined that a candidate be nominated.

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Result: Primary conventions held in more than 90 out of the 102 counties of the state, including the county of Cook, which now contains nearly if not fully one-fourth of its population, determined to nominate a candidate, and indicated their preference for the person to be presented to the people. The state convention expressly approved the plan of direct election and indorsed the candidate. He accepted the platform and toured the state. On the issues 101 (out of 202) members were elected to the legislature by an aggregate plurality of 30,000 and over. These one hundred and one members of the legislature, regarding themselves as electors chosen to register the will of the people, between the 21st day of January, 1901, and the 11th of March, voted for the candidate nominated in 153 ballots, and on the 154th ballot they were joined by two members of the House of Representatives who were favorable to the election of senators by the direct vote of the people of the several states, and on that ballot a senator was elected.[1]

It was by virtue of the will of the people, thus directly expressed in his own nomination and election, that Senator Palmer felt himself called of the people to stand forth as their champion in the Senate in the fight for the amendment of the constitution. Yet this very experience shows how far from effective, in such a state as Illinois, is the popular control which can be exercised over senatorial elections by direct nominations endorsed by party conventions and followed by the election of legislators upon this as the main issue; for, although Palmer's candidacy was backed by a "plurality of over 30,000," the legislature was in deadlock for nearly seven weeks before his election was effected, and even then it was brought about only by the votes of two men who, as his opponents asserted, had been pledged to vote against him.[2]

It is in the states where a single party has so established its dominance as virtually to take over to itself the functions of the state that the direct primary has found most ready adoption. So congenial has this new institution proved throughout the South that it "is now no unusual thing for the number of votes

[1] Congressional Record, vol. 23, p. 1267.

[2] Compare Senator Chandler's account of this election, *Congressional Record*, vol. 23, p. 3197, April 12, 1892.

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cast in a general election to fall to a very small proportion, sometimes as low as from ten to twenty-five per cent of the vote cast in the nominating primary for the same candidates."[1] As the people of the southern states have accustomed themselves to "take part in the choice of their [state] officials almost entirely by the indirect method of sharing in the selection of the candidates of one party," it has been almost inevitable that the same procedure should be extended to the choice of senators; and, without any explicit provision of law, in most of the states senatorial contests have come to be finally decided in the primaries. How closely this method may approximate to a popular election of senators is clearly shown by Governor Jeff. Davis, of Arkansas:

> The last state convention adopted a resolution that the candidate for the United States Senate receiving the highest number of votes in the primaries should be declared the choice of the Democratic party for the United States Senate by the state convention, just as they declare the nominees of the party for state offices, and of course the legislature has no duty depending upon them but to cast their vote for the person declared the successful candidate by the state convention. This is absolutely equivalent to election by the people. You see this can happen in this state because the nominees of the Democratic party are considered as elected, as our legislature consists of 135 members and only two are Republicans.[2]

To show the extent to which in many states the legislature's function in the election of senators has become atrophied, it is only necessary to note the growing frequency of unanimous elections. In 1900, Senator Morgan received a unanimous election from the Alabama legislature, and in Louisiana two senators were thus elected. In 1901, Senator Tillman was thus returned to the Senate from South Carolina; in 1903, the vote was unanimous for Pettus in Alabama, and for Latimer in South Carolina. In 1904, Foster, in Louisiana, and both Money and McLaurin in Mississippi were unanimously elected. Upon the surface these election returns might seem to indicate such pre-

[1] Francis G. Caffey, POLITICAL SCIENCE QUARTERLY, vol. xx, p. 61, March, 1905.

[2] Letter of Governor Davis to the writer, August 29, 1904.

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ëminent qualifications in the senators chosen as totally to eclipse all other candidates. As a matter of fact, however, many of these unanimous elections have been preceded by the most acrimonious of campaigns. The unanimity of the election in the legislature merely signifies that, inasmuch as all the questions had been settled in the primary, "the election itself is a mere legal formality, to which no more attention is given than is necessary to record the result of the primary."[1] Throughout the South this method of nomination has been introduced as a mere matter of party rules, binding upon the dominant party and hence having the effect of genuine laws. In Mississippi, on the other hand, the act of 1903[2] invokes the strong arm of the law to regulate the primary and to make it as much a function of the state as is the election itself. This law abolishes all nominating conventions of whatever grade and makes specific provision for the nomination of all elective officers, including United States senators, by direct primaries.

In other sections of the country, too, the direct primary is making rapid progress. The recent laws in Minnesota, Michigan, Indiana and Massachusetts[3] provide machinery which may readily be adapted to the nomination of senators; while the

[1] F. G. Caffey, *loc. cit.* The procedure in one of these elections may be illustrated as follows: In May, 1897, the death of Joseph H. Earle caused a vacancy in South Carolina's representation in the Senate. Primaries were ordered for August 31 to ascertain the choice of the people. The Democratic state committee marked out a plan of campaign for two months, and the candidates made speeches in every county. They were J. L. McLaurin, Ex-Governor Evans, Ex-Senator Irby, S. G. Mayfield and J. T. Duncan, but the last two withdrew after a short time. The canvass was most exciting and the speeches were sometimes bitterly personal. McLaurin was assailed as a protectionist, having voted in favor of protectionist amendments in the Dingley tariff bill. The vote stood: McLaurin, 29,326; Evans, 11,375; Irby, 5,159. See Appleton's Annual Cyclopædia, 1897, p. 734. In McLaurin's sketch in the Congressional Directory the purely perfunctory nature of the legislature's part in the election is suggested: "He was nominated at a Democratic primary, receiving a majority in forty-one of the forty-five counties of the state; the legislature ratified the action of the primary by electing him senator."

[2] By some writers this is considered the ideal direct nomination law. See Edward Insley, *Arena*, January, 1903, pp. 71–75.

[3] In so conservative a state as Massachusetts the legislature, during the session of 1905, considered a petition for legislation to provide for the nomination of candidates for senator by the direct vote of the people.

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new laws of Wisconsin and Illinois[1] proceed directly to that goal.

In western states the tendency in recent years is not to rest content with the designation of senatorial candidates by the state convention, nor even with the nomination of candidates by the primaries, but rather to insist upon going through all the forms of a popular election, the whole process being under the supervision not of party leaders but of state officials. Thus, as early as 1875, the following proposition was submitted by itself to the voters of Nebraska, and was by them adopted as a part of the new constitution of that year:

> The legislature may provide that, at a general election immediately preceding the expiration of the term of a United States senator from this state, the electors may by ballot express their preference for some person for the office of United States senator. The votes cast for such candidates shall be canvassed and returned in the same manner as for state officers.[2]

This thoroughly democratic provision for a preliminary popular

[1] Neither of these laws has as yet received a trial. The significant sections of the most recent primary election law—the Illinois act of May 18, 1905—are as follows: "Section 22.....Any candidate for the nomination for United States senator shall have his name printed on the primary ballot of his political party in each county by filing in the office of the secretary of state not less than thirty (30) days before the primary election a written request substantially in form as the foregoing request provided for by candidates for governor. The vote upon such candidates for United States senator shall be had for the sole purpose of ascertaining the sentiment of the voters in the respective parties. Every candidate for governor and for United States senator shall further file with the secretary of state a petition signed by not fewer than 5000 legal voters, members of the party in which he is a candidate for nomination. Not less than twenty-five (25) days before the primary election the secretary of state shall certify to the county clerk of each county the names of all candidates for governor and United States senator, together with their political affiliations, as specified in the written requests on file in his office. Each candidate for governor and for United States senator of the respective parties shall pay to the secretary of state a filing fee of one hundred (100) dollars.

Section 49.....The secretary of state shall cause to be delivered to the secretary of state convention of the respective parties next following such primary election..... the total vote by counties for each candidate for governor of the respective parties. It shall be the duty of the secretaries respectively of the county, senatorial, congressional and state conventions, to read to the convention before any candidate is put in nomination, the total vote, by counties, received by each candidate of the respective party voted for upon the primary ballot provided for in this act.

[2] Nebraska constitution, article 16, section 312.

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election was for a long time absolutely unique; yet the people of Nebraska have seemed to take little interest in it. In twenty-five years and more, since it became a part of the constitution, they have made use of it but once, and then with results that are significant. In 1886 General Van Wyck made an active canvass of the state in his own behalf as an anti-monopolist. Neither the Republican nor the Democratic party put forward a senatorial candidate in the popular election in November, at which, although 138,209 votes were cast for governor, only 50,448 voters expressed a preference for senator; of these more than 91 per cent voted for Van Wyck. When the legislature met, he led on the first two ballots, receiving 40 votes out of 100; but he failed to secure the election, a result which he attributed to the interference of railroad officials and monopolists. As to the present attitude of the people toward this election, the governor of Nebraska writes:

> In 1898 this matter was included in the proclamation, but there was a very feeble response. From most counties no returns were made. In the fifth and sixth congressional districts combined (which would normally contain not less than 75,000 voters) only 626 votes were cast on this preference. It appears to be generally popular throughout the state, but there is a general apathy when it comes to placing the matter on the ballot.[1]

In other states more recent laws have been framed upon this subject with greater and greater particularity. Their titles and preambles leave no doubt as to their motive. Thus, in 1899, Nevada enacted a law entitled: "An act to secure the election of United States senators in accordance with the will of the people and the choice of the electors of the state, and to obtain an expression of such choice and to prevent fraud and official dereliction of duty in connection with such elections." This law provides that candidates for the Senate may be nominated in the same manner as the candidates for the state offices; the names of the senatorial candidates having been given a place upon the ballot, the votes upon them are certified in the same manner as upon the other candidates;

[1] Letter of Governor John H. Mickey to the writer, Aug. 31, 1904.

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and the secretary of state is required to transmit the results to the legislature, when it meets for the formal election. Accordingly, in Nevada, a party convention nominates on the same day—as was done August 10, 1904—candidates for the United States Senate, for representative in Congress and for judge of the state supreme court. The subsequent election process in the case of all these candidates is precisely the same, except that the election of the judge and of the member of Congress is complete when the returns of the popular vote are duly certified, while in the case of the senator the only election of which federal law takes any account does not begin until months later, when the legislature takes up that task. As regards the election of a senator, accordingly, all these elaborate operations are but a complicated method of bringing moral pressure to bear upon men who, in spite of it all, have a perfect legal right to vote for the man of their party allegiance or of their personal liking.

By the Oregon law of 1901, as in Nevada, the whole process is assimilated to that employed in the election of state officers; in one respect, however, the people's choice for senator is more forcibly obtruded upon the legislature. Duplicate copies of the returns are to be sent to the House and to the Senate, and their respective presiding officers are required to

> lay the same before the separate houses when assembled to elect a senator in Congress as now required by the laws of Congress, and it shall be the duty of each house to count the votes and announce the candidate for senator having the highest number, and thereupon the houses shall proceed to the election of a senator, as required by the act of Congress and the constitution of this state.

The plain intent of this law was to subject senatorial elections to a popular control more direct and more imperative than had ever before been attempted by any state. It would hardly be possible to say to the legislature more plainly: "This is the way. Walk ye in it." What has been the result? At the assembling of the next legislature, Governor Geer put before them the situation as follows:

> In obedience to a general demand from the people and the press of the

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state, the last legislature passed a law providing for a direct vote on candidates for United States senator. After a careful revision during its passage this law was enacted by a vote that was practically unanimous, and in exact accord with its provisions the popular vote was held last June . . . In many states of the Union the result of this first attempt at the popular vote for United States senators is watched with much interest, and its prompt observance and ratification will not only encourage its adoption in other states, but will prove the sincerity of our protestations in favor of popular election of senators and render impossible a repetition of former experiences in Oregon, to prevent which this law was formulated, supported and adopted.

This experiment certainly deserved the serious attention of the other states, but the note of strenuousness in the governor's words in reference to it may possibly be related to the fact that he himself was the candidate who had carried the popular election by a large majority. On the very day when the legislature had been thus exhorted, January 20, 1902, there were transmitted to the separate houses of the legislature with all due formality copies of an abstract of votes cast at the general election for senator held during the previous June. In the House the speaker appointed a committee of three to assist in canvassing the vote, and the result was announced as follows: For T. T. Geer, 44,697; for C. E. S. Wood, 32,627. The record proceeds: "The election of United States senator being next in order, Mr. Denny placed in nomination Hon. T. T. Geer, Mr. Phelps placed in nomination Hon. C. W. Fulton, Mr. Galloway placed in nomination Hon. C. E. S. Wood. The roll was called with the following result: Geer, 12; Fulton, 19; Wood, 12"—and scattering votes for eleven other candidates. Thus the man who had secured a majority of 37 per cent in the popular vote received only a small minority on this first ballot in the House. The election was thrown into the joint assembly, and there the deadlock, which seems to have become the normal thing in the legislatures of Oregon, forthwith began. Not until it had lasted more than five weeks did it become possible, at a night session, on the forty-second joint ballot, to elect a senator. The candidate elected was a man for whom not a single vote had been cast in this much vaunted popular election, which

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had been instituted for the express purpose of affording the people "an opportunity to instruct their senators and representatives in the legislative assembly as to the election of a senator in Congress from Oregon.[1]

But schemes for controlling the legislature's choice have gone even further. In Colorado there was recently introduced a bill of a much more radical nature. It provided that at the general election next preceding the time for electing a United States senator, each political party might place upon the ballot the names of five or less candidates for the Senate, and bound the members of the legislature under penalty of expulsion to vote for the candidates of their respective parties receiving the greatest number of popular votes.[2] This bill did not become a law. Had it done so, its constitutionality might possibly have been successfully contested. But its introduction is highly significant of the growing determination on the part of the people of the western states that in electing senators their state legislators shall presume to exercise no independence of choice, but shall merely register the people's expressed will. The fundamental idea in this novel Colorado proposal, it is interesting to note, has received the approval of distinguished authority: in the debate over the law of 1866 both Senator Williams and Senator Sumner insisted that, although the constitution directed that senators should be chosen by the legislatures, their constituents had a right to instruct the members as to their votes for senator and had a right to be obeyed.

It may prove possible for the states to give the people free power of nomination and yet leave to the legislatures a power of election which has not been reduced to a mere form. Along this line the suggestion has recently been made that the names of all candidates who receive a certain number of votes (say 3000 or 5000) in the direct primaries be printed upon the official ballot at the general state election; and that the result of

[1] Preamble of the law of February 26, 1901.

[2] This would do little more than incorporate into law a practice which already has the force of law in some of the states. Thus, in South Carolina, candidates for the legislature are placed under oath to abide by the results of the primary. Jesse Macy, Party Organization and Machinery, p. 195.

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this election, as represented by the list of those candidates (say five or ten) who have received the highest number of votes, be a popular instruction to the legislature to choose from them a senator by the Australian ballot, each member to vote on the first ballot for three on the list, and on the second for one (or two, as the case may be) out of the three highest, as determined by the first ballot. Among the benefits to be expected from such an elective process it is predicted that choice would no longer be a choice of two evils, and that worthy candidates would "tend to multiply, since they could allow their names to be used without loss of self-respect."[1] This scheme has been criticised as "academic," yet it has much to commend it for practical experiment. The constitutionality of limiting the legislature's range of choice to the list of candidates sent up by the people may be questioned; but even if such a limitation were not rigidly enforced the list of nominees with such backing could not fail to have a large measure of influence.

The object of this study has not been to set forth isolated experiments in constitutional law and custom, but to trace the progress of a movement which during the past thirty years has taken on different forms, has employed different means and methods, but has ever kept the same spirit and aim—a determination that the Senate of the United States shall be made responsible to the people.

The route first attempted was by way of an amendment to the constitution providing for the election of senators by the direct vote of the people. Only under urgent prompting from outside did Congress accord serious attention to this project; for years it received little more than perfunctory lip-service; yet so insistent became the demand that five times, and by ever-increasing majorities, the House of Representatives has passed a resolution proposing such an amendment. But progress toward the goal by this route has always been blocked upon reaching the frozen sea of the Senate's stolid resistance. In despair of success upon this line, recourse has been had to the

[1] See P. Garrison, "The Reform of the Senate," *Atlantic Monthly*, vol. 68, pp. 227–234, August, 1891.

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optional but hitherto untried method of proposing amendments: state legislatures have been calling upon Congress to summon a convention for the express purpose of initiating this amendment. In one form or another the legislatures of thirty-one states —more than the full two-thirds prescribed by the constitution— have communicated to Congress their formal approval of the proposed change in the constitution: indeed, if the votes in the House be taken as a fair representation of the will of the people in their constituencies, only two states in the Union have failed to give their endorsement. Along this line, then, the movement has reached a point where it needs but the putting of these requests into a common form and the marshalling of this scattering fire of resolutions into one concerted volley of demand, to constitute a mandate which the constitution gives Congress no warrant but to heed. That the House would offer no obstruction every precedent makes clear. Would the Senate still demur, and thus invite disaster upon itself?

Meantime a vast deal of ingenuity has been devoted to attempts to reach popular control of senatorial elections by some other route than the amending of the constitution. While the form of election by the legislature is retained, its spirit has been radically changed. In no state in the Union to-day do members of the legislature proceed to the election of a senator with that enlightened independence, that freedom of individual discretion in the choice, from which the Fathers anticipated such beneficent results. Everywhere the legislators approach the task under the domination of party, and in every state where one well-disciplined party is in power the result of the election is a certainty even before the legislature convenes. Not only has party spirit claimed this election for its own, but the party's choice for senator is often made before the members of the legislature are elected and is obtruded upon that body by the state convention. Already in about a third of the states, either under party rules or in accordance with the explicit provisions of state law, direct primaries name the candidates, and wherever a strong party is supreme this nomination is tantamount to an election. In four states provision is made for a popular "election" carried out under the supervision of officials not of the

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party but of the state, an election as complete in all its details and formalities as is that of the governor, yet as void of legal power to bind the legislature in the real election of a senator as would be the resolutions adopted by a boys' debating society.

Everywhere the movement for the direct primary is gaining ground. How will this advance affect the movement for an amendment authorizing popular election of senators? Both are outgrowths of the same democratic spirit. Some enthusiasts for the direct primary claim that the adoption and intelligent use of that device will restore to the legislatures their pristine purity and independence and fit them to perform the task of selection which the Fathers devolved upon them. But this optimistic forecast neglects two of the plainest lessons of experience. In the first place, the betterment of the legislatures through the nomination of their members by direct primaries does nothing to remove the perverting and corrupting influences exerted upon the legislatures by the retention of this incongruous electoral function. Of all the causes which have tended to degrade our lawmaking bodies hardly any other has exerted so malign a potency. To these bad influences the direct primary aims merely to subject a higher grade of legislators, possessed, it is assumed, of greater powers of resistance. In the second place, the Oregon fiasco of 1903 was hardly needed to afford convincing proof that the endorsement of senatorial candidates by state conventions, their nomination by direct primaries, even their "election" by an overwhelming majority of the vote of the people, may count absolutely for naught in influencing the real election at the hands of a legislature ruled by party bosses or rent by factions which this very election has brought into being. In the very states where popular control of senatorial elections is most needed, the best-laid schemes for its realization have proved futile.

What then is to be the outcome? That depends not a little upon the temper and action of the Senate itself. If senators have foresight enough to discern the cloud while it is yet but the size of a man's hand, the gathering tempest of discontent may be averted. For, in comparison with a rule-ridden House that has ceased to be a deliberative body, a Senate that gave

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evidence of feeling itself responsible to public opinion and of striving to discover and serve the country's broader interests might so win the people's confidence that agitation for change in its mode of election would lose all its force. But is legislative election under present conditions calculated to yield a Senate capable of such self-regeneration? If, on the other hand, the Senate continues for a few years more arrogantly to refuse the people an opportunity to pass upon the mode by which its members shall be elected; if, meantime, relying upon the impregnable defences built about their office by legislative election, senators persist in neglecting or perverting measures of the utmost public concern, while not a few of them are devoting their best energies to the protection of private interests; if state legislatures, heedless of the earnest and manifold efforts made by the people to bring them to a sense of their high responsibility to the state in the selection of senators, persist in using their legal freedom of choice not for the selection of the best men but of men whose presence in the Senate is a disgrace to the state and a menace to popular government—then the new century will still be young when the people, tired of all this treachery on the part of their representatives, will cast aside this long established mode of election. Then, for better, for worse, democracy will take the election of senators into its own eager and strong but unskilled hands.

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SHIPPING SUBSIDIES.

THREE "reasons" for subsidy are usually given by those advocating this method of building up our merchant marine: first, the greater cost of construction in American yards; second, the greater cost of maintenance and operation under the American flag; and third, the bounties given by other nations.

The greatest diversity of opinion prevails as to the amount of difference in cost of construction. In 1894, the commissioner of navigation declared that steel steamers could be built as cheaply in the United States as anywhere on earth. In 1898, he estimated that the cost in American yards was much greater. Since then he has been busily engaged in revising his estimates of comparative cost.

The Merchant Marine Commission, appointed by Congress in 1903, gathered much testimony on this subject. The cost of construction in American yards was estimated by different witnesses to be anywhere from 20 to 100 per cent greater than in English yards. Nearly all agreed, however, that it costs more to build vessels in America than in Europe. Most of the witnesses favored subsidies as the proper means of neutralizing this disadvantage in initial cost.

In regard to operating expenses there is even greater diversity of opinion. The testimony taken by the Merchant Marine Commission is full of contradictory statements regarding wages of seamen on board American vessels as compared with wages on foreign vessels. Seamen and representatives of seamen's unions asserted that wages were not a matter of nationality at all, but were determined wholly by the port where the crew was engaged. Some owners declared that wages of ordinary seamen were determined by the port, but that salaries of officers were governed by the nationality of the ship. Most shipowners and all ship-builders asserted with great positiveness that wages were wholly a matter of nationality and that the port had nothing whatever to do with them. It was asserted

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repeatedly that Norwegian sailors would work on board a Norwegian ship for less than half the wages they would demand on an American vessel. At the same time it was asserted that sailors of all nationalities preferred American vessels to any others because of the better food and arrangements and the larger and more comfortable quarters assigned to the crew. These contradictory statements can not be reconciled. They were presented as "facts." It is doubtless true in many cases that laborers, by reason of their own ignorance and short-sightedness, receive no greater pay for especially hard or dangerous labor than others receive for safe and pleasant labor of the same grade; but it seems hardly possible that sailors are so perversely ignorant that they demand wages in inverse proportion to the danger and irksomeness of their tasks.

The calm assurance with which the advocates of subsidy assume that bonuses to shipping will immediately result in rapid expansion of the merchant navy is rather irritating. The basis of this assumption consists of citations of "statistics" relating to the effects of English, German and other subsidies. The statistics do indeed show rapid growth of English and German commerce and shipping. Since English and German shipping is prosperous and these countries pay subsidies, it is argued that subsidies cause shipping to increase. Such a use of statistics brings contempt upon the statistical method. It may be well worth while to examine the history of the shipping subsidies granted by some of the leading commercial countries, if for no other purpose than to show the fatuity of most of these so-called statistical studies.

The supremacy of Great Britain in the ocean transport business makes her policy toward shipping especially interesting and important. Each side in the subsidy controversy claims this country as the shining example of its own peculiar program. On the one hand it is asserted that Great Britain has paid and is still paying enormous subsidies to shipping, and that her maritime superiority is due to these payments. On the other hand it is declared that Great Britain does not now pay and never has paid real subsidies, and that this let-alone policy has been the cause of her commercial and maritime prosperity.

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Discussion of British subsidies can refer only to postal subventions, since Great Britain never has given general bounties on construction or navigation of ships. *A priori*, it seems unlikely that postal subventions can build up a merchant marine. They help only such vessels as are suitable for mail service. These constitute but a very small proportion of the total merchant tonnage (in the case of Great Britain, about two per cent), and they carry even a less percentage of the entire commerce. True, freight steamers are dependent upon the mail steamers for regular and quick communications, but advantages in the way of prompt communication are hardly of such importance as to induce men to build and run freight steamers unless their country has other and more important advantages. It is clear that profitable mail contracts encourage the particular lines lucky enough to secure them, but there is no reason for asserting that this encouragement of special lines aids the merchant marine in general. In fact, the experience of Great Britain as of other countries proves the contrary as conclusively as experience can prove anything.

The Cunard subsidy did not, as is often asserted, establish trans-Atlantic steam navigation. The Great Western Company had built a steamer and run it successfully across the Atlantic before Samuel Cunard asked for a subsidy to enable him to do the same thing. There is not the slightest doubt that the subsidy given to Cunard helped him to make dividends. It is equally certain that the liberal grants to Cunard discouraged his first rival, the Great Western Company, and finally drove it into bankruptcy. The existing statistics do not show whether the encouragement to Cunard acted in the beginning more or less powerfully on the growth of shipping and commerce than did the accompanying discouragement to his rivals. Here the statistical method breaks down and we must treat the subject deductively.

If the mail payments are sufficient only to remunerate the contracting company for the necessary cost of the service it performs, it is reasonable to suppose that the contract will act merely to concentrate the ocean-mail business into the hands of the contracting company. The building and sailing of ships

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will not be in the least encouraged or accelerated. The contracting line will grow at the expense of other shipping. This effect of mail subventions has been decried as an evil because monopolistic. Whether evil or good it cannot be obviated.

If the subventions are larger than the necessary cost of the service, two results are possible. Either the payments serve to remunerate inefficiency for its inability to make profits, or the bonus above the cost of service bestows upon the contracting line a monopoly advantage, giving it power to cut freight and passenger rates under the competitive point. This condition might encourage the contracting line to expand until it had absorbed a large part of the business of its rivals. The motive for this policy would be the hope of enhanced profits, and the only way to secure such profits is to drive out rivals and then raise freight rates above the competitive price. The effects of such a policy are first to stimulate and then to discourage the growth of shipping. Careful investigations go to show that the Cunard subsidies retarded rather than accelerated the growth of the British marine. Cunard drove the Great Western Company out of business and prevented a joint-stock company from being formed; and when the American Collins line was established, he induced the British government to increase his subsidy to meet the new competition. At the same time he cut freight rates in half—all of which goes to show that he possessed a certain monopolistic control over the fast freighting business of the North Atlantic, due in part at least to the over-liberal government subsidies. This policy helped the Cunard company to make profits for a time, but it did not aid the British merchant marine. On the contrary, it seems probable that the tonnage of all British steamers, including the Cunard lines, did not increase so much as would have been the case had no special contracts been granted, or had the payments been arranged on a strictly business basis. Later on, the White Star boats beat the subsidized Cunard steamers both in speed and comfort. The bounty which at first discouraged its rivals finally injured the Cunard line itself. Not until the British government ceased to hover maternally over this enterprise was the Cunard line able to compete successfully with its

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later rivals. The new agreement between the government and the Cunard company is, however, a reversion to the ancient policy of special privileges.

The history of other British mail lines substantiates the above conclusions. The contracts with the Peninsular and Oriental Company were for the most part arranged on business principles. Nevertheless they tended to give that line a preponderance in Eastern trade because of the vast amount of the governmental patronage. The Royal West India Mail was a costly experiment, which can not be justified even on the grounds of the need of quick communications with the colonies. Whether the British imperial mail contracts can or can not be justified on other grounds, it can not be shown that they have helped in the least to add permanently to the tonnage of British shipping. The history of English subsidies does not, however, justify sweeping generalizations on the policy of subsidies. Different conditions demand different treatment.

The mail subsidy policy began in Germany in 1885, when a subvention of 4,400,000 marks a year was given to the North German Lloyd for services to East Asia and Australia. In 1898 this subvention was increased to 5,570,000 marks. In 1890 a subsidy of 900,000 marks a year was granted to the East Africa line, which payment was increased in 1901 to 1,350,000 marks, so that Germany now pays altogether 6,940,000 marks per annum in ocean-mail subventions. The mileage rates paid by Germany are lower than those paid by Great Britain, though on the basis of the weight of mails carried they are much higher. On the whole the mail subventions paid by Germany seem no more than a fair compensation for the services rendered, taking account of the speed requirements, the regular times of sailing, and the free carriage of officials and official dispatches. The intention of the German government in granting the mail subventions, as indicated in the various official memoranda and the debates in the Bundesrath and the Reichstag, was to encourage exports and shipping.

In addition to these subsidies the German government grants free importation of all materials of construction and gives preferential railway rates on such materials. Besides, the state

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gives special assistance to the German Levant line and the German East Africa line in the way of special through freight rates, which give the railroad an unduly small proportion of the combined rates, on exports from Germany. Neither the amount of these indirect bounties nor their effect on export can be accurately estimated. Commerce and shipping have expanded, and it is reasonable to suppose that the preferential rates had some influence in this direction. If larger exports and greater tonnage are the only considerations, then the German system of preferential rates would seem to be a more efficacious method than mail subventions. But if state expenditure should bear any just relation to value received, then the expediency of these state favors may well be questioned.

The official statistics of trade over the North German Lloyd lines show a constant increase. The conclusion is hastily drawn that this increase is wholly due to the mail subventions. Even were this the case, the wisdom of paying 17,040,800 marks in subsidies from 1888 to 1897 for the purpose of increasing the yearly exports to East Asia from 18,800,000 to 52,000,000 marks, and imports from 28,000,000 to 64,000,000 marks, is not apparent. During the same period the German government paid 26,896,000 marks for the Australian service, and the exports to Australia increased from 13,200,000 to 32,000,000 marks, and the imports from 12,000,000 to 36,000,000 marks a year.[1] The insignificant amount of German trade over the East Africa line indicates that the preferential through freight rates have had no appreciable influence in stimulating German exports.[2] The Levant line refuses to publish statistics of its business. Its tonnage has greatly increased, but this is probably due to the profitable coasting trade rather than to increased commerce with the home country.

To ascribe the rapid progress of German shipping to bounties, direct or indirect, is absurd. In the first place, this rapid expansion began in 1881, four years before mail subventions were granted and long before preferential railway rates were inaugu-

[1] Figures taken from Commercial No. 2 (1898) in British Parliamentary Reports.

[2] See Commercial No. 2 (1898).

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rated. Secondly, Germany does not pay large subsidies. The total amount of the mail subventions is but little greater than the amounts which the United States is now paying on account of contract ocean-mail service for much shorter routes and less onerous service. Computed on either a mileage or weight basis the German rates are much lower. Thirdly, no possible connection between the state aid and the growth of the merchant marine can be established. On the other hand other economic causes are sufficient to explain Germany's maritime growth. The emigrant movement to the United States built up the North German Lloyd and the Hamburg-American lines. The industrial revolution in Germany since 1880 accounts for the expansion both in commerce and in shipping. The effects of the bounties, both direct and indirect, are insignificant compared to the effects of these economic forces. As indicated above, the motive for governmental interference was to stimulate German commerce and shipping. If the coddling policy has really encouraged these industries, it must be because of the inadequacy of the subsidies.

Of the countries giving direct bounties on construction and navigation, France offers the most instructive study. Under the law of 1881, the French government expended up to 1893 nearly 31,500,000 francs in construction bounties, and more than 89,000,000 francs in navigation bounties. During this time the sailing marine continued to decline as rapidly as ever, while the steam tonnage increased for the first five or six years of the period at an accelerated rate. As industrial conditions remained practically unchanged in France, it is fair to suppose that the bounty was the cause of this accelerated increase. Under the law of 1893, France expended, up to 1903, about 55,000,000 francs for construction and 117,000,000 francs for navigation bounties. The law was so framed as to give a disproportionately large bounty to sailing vessels, amounting often to 25 per cent of the capital invested. More than half the gross incomes of some lines of sailers were made up of the government bounties.[1] The principle worked out in this re-

[1] *Cf. Journal des Économistes*, vol. 48 (1901), pp. 312 *et seq.*

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markable law was government aid to industry incapable of self-support—the more incapacity, the more subsidy. As a consequence, by 1902, French sail tonnage had increased to nearly the amount existing in 1881, while steam tonnage had increased but little. It is remarkable that in spite of the exclusion of foreign-built tonnage from the bounties, the increase in the steam marine was largely due to purchase abroad. Only the uncertainty of government favors prevented a still greater multiplication of the comparatively inefficient sailing vessel.

The statistics[1] show a considerable increase since 1893 in French tonnage engaged in foreign trade, but the percentage of French to total tonnage so engaged has pretty steadily declined since 1886. What is more significant, the percentage of French commerce (value) carried in French ships increased from 1881 to 1895, since when it has declined considerably. To summarize, before 1881 the total tonnage decreased rapidly. This does not necessarily indicate a decrease in the efficiency of the merchant navy. Statistics of commerce, however, show that the mercantile fleet was declining in activity as well. The law of 1881 seems to have produced a temporary increase both in tonnage and activity. Since the law of 1893, the tonnage has increased somewhat, principally through additions to the sailing fleet, while the activity of the marine has steadily declined. This indicates a most unhealthy condition—a marine increasing in size and diminishing in utility. While the bounties appear to have brought about an increase in tonnage, they have at the same time sapped the remaining vitality of French maritime enterprise and left it a giant infant which becomes more dependent the larger it grows. The experience of France shows luminously the vast difference between a valuable merchant marine and an expensive one. The uneconomic expansion of the sailing marine at the expense of the steam marine led to the law of 1902, which took away the preponderating advantage accorded to sailing ships.

The French postal subventions are much older, are even larger in amount and are therefore probably more influential

[1] See Bulletin de Statistique, Statesman's Yearbook, Almanach de Gotha, Annuaire Statistique, and Tableaux annuels du commerce et de la navigation.

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than are the general subsidies. The Compagnie Générale Transatlantique, the Messageries Maritimes, and the Chargeurs Réunis are the chief postal lines. They own about 50 per cent of the French steam merchant marine. The postal subventions since 1896 have amounted to about 26,000,000 francs per annum. The mileage rates are much higher than those paid by Germany and England. The payments must be in part true bounties disguised as postal subventions.

The cost of constructing steamers is estimated to be 25 to 50 per cent greater in France than in England. How much of this greater cost is due to natural economic conditions and how much is due to the bounties can not be determined. French ship-owners complain that builders are united in a trust and charge enough for construction to absorb the whole of the bounty to navigation. As foreign-built vessels are not entitled either to navigation bounties or postal subsidies,[1] the builders have the owners on the hip. Under the circumstances it is absurd to speak of a bounty to equalize first costs. Costs of construction increase with the bounty, so that if the government chose to double its mail subsidies, the "costs of service" would absorb the whole amount. First costs of steamers, docks, *etc.*, would be doubled and so on down the line in beautiful procession. The service will cost as much as the government is willing and able to pay.

The rapid expansion of Japanese shipping and commerce in conjunction with the granting of subsidies in 1896 has furnished much ammunition to the advocates of subsidies. The law of 1896 granted general subsidies for both construction and navigation, and in addition it established fifteen postal lines at an annual expense of $2,482,202. This law, coming at the time of Japan's most rapid industrial progress, acted as a powerful stimulus to shipping ventures. New steamship lines were started and old ones doubled or trebled their capitals and fleets. The possibility of overdoing the shipping business was overlooked. Consequently the oversupply of ships (mostly Eng-

[1] The law of 1902 expressly excludes foreign-built ships in one article and in the next article admits them conditionally. Foreign construction is really placed under a greater disadvantage than by the law of 1893.

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lish-built) brought down freight rates, and this, coupled with the economic crisis of 1898–99, caused severe losses to the shipping companies. A law was passed in 1899 making the navigation bounties to foreign-built ships only 50 per cent of the former rates, and fixing the mail subventions at certain stated sums. Since then shipping has continued to expand, though less rapidly.

The effects of subsidies by England, Germany, France and Japan differed because of different conditions. In England shipping was highly developed, and the bounties, so far as they were true bounties, retarded rather than aided development. German shipping was prosperous before the era of state interference. The postal subventions are not true bounties, and have no appreciable effect. The indirect bounties depend upon the activity of the shipping, and have done no apparent harm, at least to the shipping interests, whatever may be said of the evils of export bounties. In France shipping was on the decline. The subsidies seem to have arrested the decrease in tonnage and accelerated the decline in self-dependence. France has demonstrated beyond question the fact that a nation may own a merchant navy if it is willing and able to pay enough for it. She has also shown that the possession of such a marine is not necessarily a source of wealth or a subject for rejoicing. Japan offers the best material for the believer in subsidies to conjure with. It is possible that her legislators were quicker to discern the natural advantages of Japan as an ocean carrier than were her business men. But accelerated growth accompanied by aggravated commercial depression has its drawbacks. Furthermore the attempt of Japanese statesman to make Japan a ship-building nation does not show great wisdom. No amount of bounty can develop ship-building in a country inadequately supplied with coal and iron.

The United States has experimented from time to time with mail subventions, and the results have not been very happy. From 1847 to 1858 the government paid nearly $15,000,000 in mail subsidies to six different steamship lines. The failure of the subsidies to give any permanent impetus to steam navigation is ascribed by one party to

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the inherent evil of bounties and by the other to the shortness of the period and the insufficient amount of the subsidy. In truth England possessed such a great advantage over us in the construction and operation of steamships that only extremely large bounties could have kept our mail steamers afloat in "competition" with those of England. In the subsidy war with England which followed the establishment of the Collins line we stood no chance to win. England had cheaper ships, cheaper coal, vastly greater commerce and incomparably greater wealth to waste in subsidies if she thought them necessary. Perhaps no blame should attach to this ill-advised experiment, but, in the light of after events, the impossibility of our outrivaling England at that time is obvious.

From 1865 to 1875 Brazil and the United States paid jointly $250,000 a year for a mail line between New York and Rio Janiero. When the subsidy ceased the line suspended. The subsidy created and supported the line, but the mere existence of this line had no discernible effect either on commerce or shipping.

In 1867 the Pacific Mail commenced a monthly service between San Francisco and the Orient on a subsidy of $500,000 per annum. Five years later the company offered to double the service for another $500,000. After great difficulty a bill authorizing the increased service passed Congress. Later it was proven that the company had spent about a million dollars in more or less direct bribery to secure the passage of the bill.[1] Because of the improper methods used to secure the necessary legislation, the later contract was annulled.

During the period of subsidy, imports from China and Japan increased somewhat, while exports actually decreased.[2] The subsidized steamship line was no more responsible for the one than for the other. Trade with South America and Asia remained practically stationary because we had nothing that the inhabitants of those two continents wanted. A subsidy large enough to enable goods to be given away could scarcely have

[1] See 42d Congress, 2d Session, House Doc. no. 598, Miscellaneous Docs. nos. 74 and 255; 43d Congress, 1st Session, House Doc. no. 368.

[2] See Treasury Reports on Commerce and Navigation for the years 1860 to 1880.

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increased exports much. No development of shipping resulted from this burst of subsidy. In a speech before the House of Representatives in 1879 on the occasion of a new subsidy proposition for a line to Brazil, Mr. J. G. Cannon said:

> Beginning with the year 1847, down to the present time, we have paid out of the Treasury over $21,000,000 for the purpose of establishing steamship lines. Seven million dollars would buy all the steamship lines engaged in commerce that sail under the American flag on every ocean in the world, and more than that, the subsidizing of these steamship lines, from the Collins line in 1850 up to the present time, has bankrupted every prominent man that favored it.

The disgraceful experience with the Pacific mail discouraged further subsidy schemes until 1891, when the present ocean mail act was passed. It establishes four classes of steamships to receive respectively $4.00, $2.00, $1.00 and $0.66⅔ per mile traversed as compensation for carrying the mails. At its passage it was confidently predicted that ocean transportation would as a consequence be revolutionized and American shipping would soon cover every sea. Six mail lines have been established under the law, demanding a yearly expenditure of nearly $1,500,000, but no revolutionary developments in American shipping have yet resulted. The impossibility of building up the merchant marine by subsidies, reasonable or exorbitant, for carrying the mails has been pointed out above.

The decline in the American marine was not caused, as is generally supposed, by the Civil war, although a great amount of shipping was destroyed or sold during the war. The loss would have been quickly recovered had conditions remained the same as during the first half of the nineteenth century. The change from wood to iron materials and from wind to steam propulsion was largely responsible for the advance of English and the decline of American shipping. Perhaps of equal influence were the protective duties which made investments in manufacturing enterprises very profitable as compared with shipping ventures. But more than all, the building of railroads, the opening up of new mines and the development of other resources absorbed the capital and energy of the Amer-

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ican people. Now that American business men have exploited the richest natural resources of the continent, they are turning their attention once more to over-sea ventures. A large amount of American capital is invested in ocean-going shipping, but it sails, for the most part, under foreign flags. Our yards are building but little for the foreign trade, possibly because of the greater cost of construction.

There is a widely prevalent belief that a country must possess a large merchant navy in order to be an independent and self-respecting nation. It is further believed that the nation which must make use of the merchant shipping of foreign countries is economically dependent upon those countries. So far as economy is concerned, there is no reason why we should object to having our freights carried by Englishmen, Norwegians, Italians and Germans. So long as these people can carry them cheaper than we can ourselves, there is nothing but gain for us in the transaction.

Apart from a certain romantic glamour which clings to the sea, "a life on the ocean wave" is a most unattractive vocation. It will require more than eloquence to convince the American laborer that the hazardous, erratic existence of a seaman is preferable to a comfortable home on solid ground, where a thousand conveniences and luxuries, denied to the sailor, can be enjoyed. The dream of creating a merchant marine to be manned by American sailors seems far from realization. If we insist upon this point it means enormous subsidies, to be continued as long as the wages of American laborers, taking efficiency into account, are higher than the wages paid for seamen by England and other maritime countries. If American laborers were as efficient in managing ships as they are in other lines of work, there would be no disadvantage in wages to be overcome. As it is, a handicap in the navigation of ships does exist, and it can be overcome in but two ways: first, by improving American ships, thus rendering the labor of seamen on our vessels more efficient than on foreign vessels; second, by reduction of wages to the level of foreign wages. The latter possibility can come only when we have a population as redundant as that of the leading maritime countries of the world.

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The cost of maintaining a merchant marine at public expense cannot be estimated, because there are no reliable figures showing the real difference in wages in the United States as compared with other countries. The yearly amount would be large, however, and only the wildest guess can be made whether the efficiency of American seamen would or would not increase sufficiently to make up for the difference.

If we were willing to forego the patriotic joy of manning American ships with native Americans, it would be possible to obtain a merchant marine and to run it under the American flag without any bounties. It would be necessary only to allow our shipowners to buy their ships in the cheapest market and man them on the same terms. If our navigation laws allowed free ships and freedom in the navigation of ships, there would be nothing to hinder American shipping in the foreign trade from expanding rapidly. But those most agitated by our maritime decadence do not want the merchant marine rehabilitated in this most rational manner. A merchant marine, they say, can have no permanence or value unless built at home.

If our marine is to be built at home, the difference in cost of construction, if any, must be made up by a subsidy in some form. Again it is impossible to make accurate estimates. Shipbuilders place the costs in American yards anywhere from 20 to 100 per cent higher than the costs in England. When guesses (they can scarcely be called estimates) vary so widely, it is idle to talk of a subsidy to make up the difference in first costs. It probably does cost more to build ships in the United States than in Great Britain. It would be odd were it not so. The ship-building industry in Great Britain is highly organized on an extensive scale. While the American builder constructs one ocean-going steamer, the British builder constructs scores. Fixed charges form a much larger proportion of costs in American yards. Duplicate parts are used extensively in the construction of British tramp steamers, cutting down costs greatly.

Were the industry organized on a larger scale in the United States there is every reason for supposing that ships could be built as cheaply here as anywhere else. It is well known that

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in the production of all other kinds of steel structures, our manufacturers can compete with the world. According to the latest revised edition of the "infant industry argument," a subsidy which would encourage the development of such a promising infant would increase the national income by more than the amount of the subsidy. The argument for encouraging industries of increasing returns at the expense of industries of decreasing returns is the least childish of the "infant industry arguments," but in this case there are arguments in plenty on the other side. Not to mention the obvious objection that neither the cost nor the benefit, if any, of protection can ever be guessed at, we may ask if American shipbuilding is really such a promising infant. To-day the world is confronted by an oversupply of ships. Ever since the end of the Boer war freights have been very low. This fact gave Mr. Morgan his inspiration to organize all the steamship lines of the North Atlantic into a big trust. Shipyards are working short time and turning out work at prices very little above cost. There is no great demand for steamships, and a further decrease in prices does not seem likely to create such a demand. Better organization in the ocean transportation business is much more needed than either more or better ships. In fact, a reduction in the number of ships would give a more economical service. One effect of an American subsidy would be to increase an already redundant shipping. Would this bring down freights and so lead to expansion of commerce with all its attendant blessings? Scarcely, for every idle ship is a pauper, depending for support upon active shipping. Furthermore every unused compartment in every ship in service represents idle capital, which earns nothing but demands dividends. The proposed subsidies would probably increase the costs of ocean transportation by increasing the amount of idle tonnage. Of course subsidies might be made large enough to pay part of the costs of transportation, however high. The government might even pay all the ocean freights. This would certainly tend to the expansion of commerce. Such a policy, resulting in an uneconomic multiplication of shipping, would differ from other subsidy schemes only in the degree of wastefulness and imbe-

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cility. Even if it could be shown that a subsidy would encourage a deserving industry to produce more cheaply than its foreign competitors, it does not follow that the giving of subsidy would be a wise policy.

There is then no good economic reason for granting subsidies to the merchant marine either for construction or navigation. The political arguments are two in number: first, the need of national self-sufficiency, and second, the need of a merchant navy to serve as an auxiliary naval force and to furnish transports and seamen for the war navy. As to the first count, it is impossible for any nation to be entirely independent of other peoples. Except possibly for military reasons, there can be no object in owning ships merely to show our independence of other nations. To hire foreign ships is no more an indication of inferiority or dependence than to buy foreign fish or flannels. Secondly, as to the military value of a merchant fleet, it is obvious that it is a source of danger and not a protection in time of war. Witness our own Civil war, when a few Confederate cruisers swept half our great merchant marine off the seas in spite of our powerful war navy. The more shipping a nation possesses the more vulnerable it is to attack. It is much cheaper and better for the government to build cruisers that can cruise than to subsidize a private corporation to build pseudo-war vessels that are inefficient as carriers in time of peace and useless as cruisers in time of war. The war vessel has become so highly specialized that no mail steamer can be successfully converted into an efficient cruiser. The fastest are too slow to run away from a real cruiser built for speed and the strongest are too weak to fight. As regards the ordinary merchantmen which make up nearly the entire commercial navy, canal boats could as readily be converted into engines of war as these lumbering ocean-drays. As for transports, it would seem more rational to buy them outright when needed than to pay millions in subsidies and then have to buy the subsidized ships when wanted.

If we had no merchant vessels the argument for a merchant navy to train up seamen for the war navy would have great force. But the United States ranks next to Great Britain in

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the tonnage of her merchant fleet, and close after Germany (*i. e.*, third) in the tonnage of her ocean-going vessels engaged in foreign trade. There is no pressing need of hiring vessels to train up seamen.

If we want to acquire a merchant navy in any case, whether we need it or not, we must pay the price. The childish faith in subsidies manifested by some of our oldest and therefore, according to a popular superstition, wisest politicians is depressing. The report upon the last bill introduced into and finally passed by the Senate (1902) reads in part as follows:

> The purpose of this bill and its reasonably certain results will be within ten years to establish the maritime supremacy of the United States in the trade on the Pacific with Asia and the Philippines and on the Atlantic in the trade of the Gulf of Mexico and the Caribbean Sea; to establish on a secure basis the trade between the United States and the republics of South America, and to give the United States a respectable representation in the trade of the North Atlantic. Incidentally it will give to the United States an auxiliary navy second only to Great Britain's; an ocean mail service superior to that of Great Britain, France or Germany in all respects—except for a few years more possibly the service between New York and England and the North Sea ports. It will so extend shipbuilding as to transfer in time, certainly from Germany, and possibly from Great Britain, to the United States the center of that industry, as the centers of other industries recently have been transferred. Finally, it will give to the United States a measure of maritime independence corresponding to our industrial and agricultural independence. This object and these results are perfectly well understood abroad, and afford the reason why the measure is regarded with undisguised apprehension and hostility by the shipping interests of Europe.[1]

All these grand results are to be accomplished by the yearly expenditure of a paltry $4,700,000 in mail subventions and a million in general subsidies.[2] The total is but little more than the mail subsidies paid by France, and not a million dollars greater than the subventions paid by Great Britain. Yet the American people are seriously asked to believe that the costs of construction and of navigation are 25 to 100 per cent greater

[1] See Sen. Reports, vol. 2, no. 201, p. 1.

[2] *Ibid.*, pp. 16, 28 and 29.

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under the American flag than under the British flag! Surely to overcome such great differences an appallingly large subsidy would be necessary. After our former experiences with protection we have reason to feel a qualm of doubt regarding the results of a ten years' trial of the subsidy panacea. If only the subsidy agitators could be silenced once and for all, we could afford a very costly experiment, but nowhere does hope spring so eternal as in the breasts of those who live at the public expense. It was only in 1898 that the subsidy evangelists estimated that $10,000,000 a year would be needed to revive the merchant marine. Captain W. W. Bates, formerly commissioner of navigation, figured that the original Hanna-Payne bill would cost after ten years $48,374,015 in the single year 1908, if it brought 80 per cent of the tonnage engaged in our foreign trade under the American flag, as its promoters claimed. By 1925 the annual expenditure would be increased to $82,570,512. Of course these so-called "estimates" are mere guesses, but Captain Bates's guesses are *prima facie* as valuable as Senator Frye's. The later subsidy measures have limited the amounts possible to expend in bounties. This will prevent bankruptcy of the government; but if estimates of differences in costs are at all accurate, the subsidies now demanded will do little or nothing to build up the marine. Briefly, there appears to be no way of getting something for nothing, even by the occult means of government subsidies. If we dance we must pay the piper. Possibly we may be allowed to pay the piper though we do not dance. For were costs of construction, *etc.*, in the United States no greater than in Great Britain, they could be made to appear so for the sake of a bounty, and when once a bounty is given the costs can be made to conform to its size. On the whole it seems inadvisable to tinker the merchant marine with the subsidy hammer.

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RECENT RAILROAD COMMISSION LEGISLATION.

NOT since the passage of the Interstate Commerce Act has so much attention been given by the people at large to the "railroad question" as during the present year. President Roosevelt's vigorous stand for an Interstate Commerce Commission with powers adequate for the performance of its duties, was the opening work in the discussion. For the hastily prepared measure which was rushed through the House, the Senate substituted a committee to take testimony. The sessions of the Elkins committee provided the opportunity for a general expression of opinion on the question of railroad control, including the views of railroad men, shippers and students of the problem. The report of this committee, now in preparation, promises to take rank with the Windom and Cullom reports, and will make the railroad question one of the most important before the country in the coming session of Congress.

But the attention of the people has not been turned toward questions of interstate commerce alone. The state legislative sessions of this year have been unusual in the amount and character of the legislation introduced and enacted, which has aimed to give greater control to the states over transportation agencies, especially in the matter of charges. This legislation has been most abundant in the western states, where the industries are more largely extractive and the mass of the people feel more keenly and personally the burden of inequitable railroad service. In this section, too, the people are perhaps more ready to embody their feelings of injustice in legislative enactments.

An exhaustive examination of all the legislation of this character introduced at the recent sessions of the state legislatures would be wearisome and unprofitable, but the more important acts deserve mention. Missouri enacted a maximum freight-rate bill and one relating to the classification of freight; railroad commission bills passed one house in both Idaho and Col-

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orado; in Oklahoma a commission bill which combined features of the Texas and Kansas laws failed through non-concurrence of the two houses in amendments; in Nebraska one attempt was made to create a railroad commission, and another to restore the Board of Transportation abolished in 1901, but both failed, and in their place a constitutional amendment was submitted to the people for the creation of an elective railroad commission. In Montana a commission bill failed to become a law through the governor's veto; in New Jersey a bill providing for a supervisory board was introduced; and bills were under discussion in Iowa and West Virginia.

Finally, acts were passed in four states, Washington, Indiana, Kansas and Wisconsin, providing for the creation of state railroad commissions. It is the purpose of this article to consider these four measures and to point out their significance in relation to the problems of railroad control now so widely discussed. In Washington and Indiana no legislation of this kind has ever been enacted before. Such slight control as has been exercised heretofore over railroads in these commonwealths has proceeded from the general railroad law common to all states. In Indiana the Grain Dealers' Association two years ago presented a bill to the legislature, but failed to secure its enactment. Their defeat led to a more thorough organization of the forces interested in the movement, and in 1904, the Indiana Shippers' Association was created, containing representatives of thirty commercial organizations. This influential body secured a pledge in the platforms of both parties for an improvement in transportation conditions; both candidates for governor expressed themselves favorably, and pledges were secured from candidates for the legislature. When they found the legislature nearly unanimous for a change, the railroads went into a conference with the shippers, and after a three days' session a bill was drawn up which passed both houses of the Indiana legislature with only two dissenting votes.

Kansas has had a much wider experience with legislation of this character. A railroad commission was created there in 1883 which continued in existence for fifteen years. It was appointed by the executive council and had power to investi-

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gate cases, to discover violations of law and to inspect railroads at its discretion. It had no power to prescribe rates except upon complaint. One of the last acts of the Populist legislature in 1898 was to abolish this board and substitute for it a so-called Court of Visitation, consisting of a chief judge and two associate justices, whose duties covered cases pertaining to rates and traffic and to the physical condition and technical operation of railroads. This august body was disposed of by the state supreme court in a decision which held the act creating it void on the ground that in it "legislative, judicial and administrative powers are so inextricably interwoven as to render their separation impossible." In 1901 another commission law was passed almost identical with that in existence up to 1898. This law has now been amended to such an extent as to constitute practically a new act.

Railroad control in Wisconsin began in 1874 with the passage of the famous "Potter law," under which a definite schedule of rates prescribed by the legislature was to be administered and enforced by a commission of three men. The law proved to be so stringent and so ill-adapted to the industrial conditions of the state that it was repealed in 1876, and a single commissioner, elected by the people, was substituted, with general supervision of railroad service. The commissioner might receive complaints and try cases and had the power to issue subpœnas and administer oaths, to examine witnesses and to inspect books and papers. It was his duty to discover violations of railroad law and to inspect, at his discretion, the operation and equipment of railroads. But he had no power over rates, and such decisions as he rendered in his limited field could be enforced only through appeals to the attorney general or, still more indirectly, through reports to the governor. It is needless to say that railroads were little interfered with in matters which vitally concerned the industrial interests of the state. The commission law recently enacted is the outcome of Governor LaFollette's campaign for a reform in the railroad tax laws and an increase in the tax levy. He found that the railroads would probably meet the demand for an increase in the amount of tax by an increase of rates.

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Therefore he introduced into the legislature of 1903 a very stringent act based on that of Iowa, providing for the creation of a railroad commission with power to prescribe a schedule of maximum rates. This was followed by a special message to the legislature which included a detailed study of rates in Wisconsin, in comparison with the commission-made rates of Iowa and Illinois. The result showed that the rates of Wisconsin were from 25 per cent to 50 per cent higher than those of either of the other states. The bill passed the House, but was defeated in the Senate by a powerful lobby, consisting of railroad officials, manufacturers and shippers. Then followed an interesting campaign of education. The governor continued his investigations into the rates of Wisconsin and adjoining states, he spoke at almost every county fair in the state and appealed directly to the people in an endeavor to strengthen and crystallize the reform sentiment. The railroads met these appeals with arguments and addresses prepared by their attorneys and traffic experts. They were aided by a large number of the manufacturers and shippers, who insisted that a commission empowered to fix rates would have in view absolute equality and would be compelled to adjust rates on the basis of distance, thus depriving shippers of the advantages derived from commodity rates under which raw material could be secured advantageously and markets could be controlled. The governor replied that the support of the shippers was won either through intimidation or through secret rates and rebates, and that the welfare of the people as a whole demanded the abolition of all personal discriminations and preferences. The governor in this same year quietly pushed through an act authorizing the railroad commissioner to examine the books of the railroads, in order to determine whether the state had been defrauded of tax payments. According to the administration, this examination accumulated an enormous amount of evidence of the payment of commissions and rebates to favored shippers. Whether these disclosures influenced the shippers to withdraw their opposition, or whether they simply realized that the sentiment was too strong to be resisted, is uncertain. But the fact remains that when the railroad commission bill was again intro-

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duced in January of this year, the shippers' lobby was absent. The measure in its original form was a stringent one, but it was much modified in the course of its long and arduous passage through the two houses, and the act as finally passed is so reasonable and conservative that it can hardly be altogether satisfactory to its more radical supporters.

Turning now to the four laws under discussion, there are a number of significant features worthy of consideration, The method of choice of the members of the boards is interesting and instructive when considered in connection with its historical development. Kansas elects its commissioners at its biennial elections. The other three states provide for appointment by the governor. In Indiana and Wisconsin the governor may remove any commissioner for cause after a public hearing; in Washington the governor's power of removal is absolute. Fifteen years ago appointment of commissioners was much more common than election, nineteen of the twenty-eight states securing their commissions in this way; only six were elected by popular vote.[1] But during the next twelve years the practice was greatly changed. The special report of the Interstate Commerce Commission on state regulation in 1902 shows that out of a total of thirty commissions, fifteen were elected by the people and only fourteen were appointed.[2] This change was brought about by modifications in the laws of some of the western and southern states and by the adoption of the elective method in most of the new laws. It is but an expression of the desire of the people to have a more direct part in the selection of their officials, and the practice is found more generally in the less conservative communities of the west and south. That such a policy is out of harmony with the most efficient administration of railroad matters no student of administrative problems will hesitate to affirm. Experience has shown that the election of railroad commissioners on the state ticket has brought the railroads into politics in a most objectionable way, embittering the relations of railroads and people to the detriment

[1] Two were chosen by the legislature and one was *ex-officio*.

[2] One was chosen by the legislature.

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of interests for which the commission is created, and giving rise to charges of bribery and corruption of a most serious character. To have the commissioners appointed by the governor, who is personally responsible for his choice to the people of the state, unquestionably makes for the most efficient service. The chances of securing capable men are far greater through appointment than through choice by the nominating conventions of the political parties. It is therefore encouraging to find three of the four new laws providing for this method of selection, and that, too, in states whose populations would hardly be classed among the most conservative in the country. In fact, so unfalteringly did Governor LaFollette stand for this principle that he threatened to resign the office of governor and become a candidate for railroad commissioner in case the elective method (advocated, as he maintained, by the railroads) should be adopted. In this connection it is interesting to observe that the governor of Montana vetoed the commission bill this spring because the act itself as framed by the legislature named the commissioners and made no provision for removal. The governor held that the appointing power should rest with the executive.

Another encouraging feature which reveals itself in these laws is the change in the length of term of the commissioners. In Indiana the term is four years; in Wisconsin and Washington it is six years. Kansas, on the other hand, with the elective method, prescribes a two-year term. In 1890 twelve states prescribed two-year terms; seven, terms of three years; and nine, four years and over. In 1902 the number of states prescribing two-year terms had fallen to nine; six prescribed three years; and fifteen, four years or more. It must be apparent to anyone that a commissioner with a two-year term is retired at just the time that he is entering upon his period of usefulness. He becomes valuable to the state in the intricate problems of his office only after a long apprenticeship.

When we recognize the importance of the problems which the railroad commissioners are called upon to solve and the intense interest which the people of so many states have taken in the establishment of commissions, it is astonishing that so

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little provision is made in the laws themselves to secure men with the proper qualifications for the office. The American people, and particularly the people of the West, are too apt to think that any morally responsible man of the requisite age is competent to hold any public office. The limitations placed upon the office of railroad commissioner are usually of the most general kind. It is common to require that he shall not be interested financially or be an officer in any railroad corporation, that he shall be a qualified elector and a resident of the state. Some states require that both political parties shall be represented in the board, and occasionally it is stipulated that one member shall be a civil engineer. In the four laws under discussion, no requirements beyond these are found except in the law of Wisconsin, which contains the following: "One shall have a general knowledge of railroad law; each of the others shall have a general understanding of matters relating to railroad transportation." This is delightfully indefinite, and almost suggests that the clause was introduced by some legislative wag. But it is at least a move in the right direction. While the danger of securing incompetent men is lessened under the system of appointment, yet there is no reason why the acts themselves should not contain such provisions as will limit the appointing power to the choice of men peculiarly fitted for their difficult task.

In the power granted to the commissions over rates, these four laws are all thoroughly conservative. In no one of them is power given to the commission to prescribe a classification and complete schedule of rates, but in every case the power is limited to the correction of individual rates. The most common form of the law in the past has been that which made it the duty of the commission to prescribe a complete schedule of rates for all traffic within the state. Seven states had this form in 1890 and thirteen in 1902, and most of the recent commissions have received this power. The action of these four states is, therefore, all the more striking. It might be fair to conclude that legislatures are coming to realize the absurdity of expecting three men, chosen without regard to their fitness for their duties, to assume as their first task a problem which

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it has taken railroad experts years to solve even approximately. If such a schedule ever comes out of the hands of a commission in workable form suited to the industrial needs of the state, it must be regarded as a happy accident.

In all four acts the railroads are required to file with the commission their schedules of rates together with their various rules and regulations. In Indiana these are to be furnished only on demand in a matter under investigation by the board; in the other states, within a definite time after the organization of the commission. These schedules having been filed with the commission, no change of any kind can be made in them in Wisconsin, and no increase in Indiana, without ten days' notice; in Kansas the adoption of a new schedule by a road must be reported to the board within ten days. In Indiana the board may alter these rates of the railroads only upon complaint, but in the other three states the board may proceed upon its own motion whenever it deems the matter of sufficient importance. In Kansas the law creates the office of attorney of the board, who, besides being the prosecuting officer of the board, is required to give notice and file complaint with the board whenever he believes a rate to be unjust.

In all the states except Kansas the rates fixed by the commission are absolute; in Kansas it is unlawful to raise without permission the rate which the commission has prescribed, but a rate may be lowered if the benefit of the decrease is enjoyed by all shippers. This power to prescribe absolute rates is given to the boards for the purpose of preventing discrimination, which is generally regarded as a more serious and prevalent evil than excessive rates. Power to prescribe a maximum rate has never reached effectively the fundamental difficulty in the railroad situation.

In Indiana the commission has power to approve of group rates, and the Wisconsin law permits all forms of commodity, concentration and special contract rates under the regulation of the commission, which guarantees their enjoyment to all shippers alike. It has been the contention of the railroads and the large shippers that the tendency of government made rates is toward an absolute level of equality, with no adequate con-

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sideration of situation, markets and local conditions. These provisions for special rates are intended to meet this difficulty. It is doubtful whether the danger of the insistence by a commission upon the "distance tariff" is as great in the case of a state commission as in that of a national body. Experience shows that the commissions of the several states are inclined to guard jealously the interests of their home industries without regard to those of neighboring states and to grant such rates, however special or peculiar, as will secure this end. A national commission, on the other hand, with no local interest, will be inclined to adopt distance as the important factor in the determination of a rate, because it will be the easiest method of settling difficult traffic problems and because it will appear to promote the largest justice.

Although the jurisdiction of these commissions is limited to state boundaries, the four laws all contain a provision intended to protect shippers against excessive or inequitable interstate rates, a provision which is also found in a few of the earlier laws. This clause provides for the filing of a complaint with the commission and the reference of the complaint to the offending road, as in the case of unjust state rates. If the roads disregard the notice sent them by the commission, the Interstate Commerce Commission is applied to for relief. This carries out the suggestion of section 13 of the Interstate Commerce Act, which provides that the commission "shall in like manner investigate any complaint forwarded by the railroad commissioner or the railroad commission of any state or territory at the request of such commission or commissioner." This excellent plan secures a complainant before the Interstate Commerce Commission who has no personal interest in the outcome, is well informed, capable of estimating the importance of a grievance and of presenting it in an effective way, undeterred by fears of personal injury or annoyance. A cordial coöperation of state and national commissions, which the annual conventions of commissioners have done much to promote, will aid greatly to ensure a successful administration of the law, for it will remove the difficulty which arises from conflicting jurisdictions.

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Discussion of proposed changes in the Interstate Commerce law has to a very great extent centered in the form of procedure to be followed, and the relation of the commission to the courts, especially the question whether a rate established by the commission shall remain in force until passed upon by the courts. It is of interest, therefore, to turn to these clauses in the new state laws and examine their attempted solution of this troublesome problem. In Wisconsin appeal may be taken to the court from the order of the board on questions of law, that is, to determine whether the order is reasonable, but this does not operate to stay the order. If the railroad elects to pray for an injunction against the operation of the commission's order, such an injunction may not issue until after notice and hearing. In Kansas the railroad that appeals to the court from the order of the board is not liable for any violation of the board's order pending the court's decision. In Washington the plan has been adopted which was so many times proposed in the testimony before the Elkins Committee, providing that if the court is of the opinion that the order of the commission is unreasonable or unlawful, it may suspend the order pending litigation, in which case the court shall require a bond from the railroad covering all damages caused by delay in the enforcement of the order, all penalties that would attach under the law and all compensation for sums paid by shippers in excess of the rates ordered by the commission. Indiana has attempted to solve the difficulty in much the same way, but with greater solicitude for the individual shipper and passenger. The court may suspend the commission's order pending review, provided a bond is filed to cover damages, penalties and over-payments, as in the case of Washington; but the law further provides that the railroad executing such a bond shall issue to each shipper and passenger a certificate showing the rate charged and containing a promise to repay the difference between this rate and the commission's rate, if the order of the commission is upheld. If the court sustains the commission, these certificates become payable on demand. This cumbersome scheme was the compromise plan which resulted from the three days' conference between shippers and railroads. It

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would seem probable that its success will come, if at all, from the fact that the roads will be inclined to accept the findings of the commission rather than assume the burden of clerical detail which a contest in the courts will involve. The execution of a bond by the railroad has an appearance of fair dealing about it that has won for the plan much support, but its weakness from the standpoint of the public interest lies in the fact that the persons injured by an excessive or unjust rate are often not the shippers at all, but the consumers, who are not parties to the controversy and are not in any way protected or indemnified by the bond. The excess of the rate has been absorbed into the price which they have paid and has often disappeared before the court proceeding has been instituted. It is this very important fact, so often overlooked, which justifies the state in conferring upon its commission the power to investigate complaints as well as to hear them, to proceed "upon its own motion." Only through this process does the great body of the people of the state who are suffering from unjust rates have any standing in actions against the railroads.

In the solution of the question as to the value to be placed by the court upon the commission's findings, the Indiana law provides that the court shall hear the appeal upon the transcript of testimony from the previous hearing. In the Washington law the complainant before the board, if dissatisfied with the board's decision, may appeal to the court and the case is then tried *de novo* without jury. The Wisconsin law provides that if upon trial of the action the court finds that evidence has been introduced by the plaintiff different from or additional to that offered in the hearing before the commission, it shall stay the proceeding for fifteen days and transmit a copy of the evidence to the commission. The commission may then rescind or amend its original order in the light of the new evidence and report to the court within ten days. This Wisconsin plan was evidently suggested by the rough manner in which the courts have handled the findings of the Interstate Commerce Commission. Its working will be watched with the greatest interest and may be worthy of adoption into our national law. It makes the record of the commission final.

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Annual reports of the railroads to the commission are required in the usual form. The Wisconsin law introduces the wise provision that the blanks prepared for reports to the commission shall conform as nearly as possible to the Interstate Commerce blank. This practice is being followed voluntarily by many commissions, but a legal provision requiring it has a tendency to hasten a most desirable consummation, when state and national reports will be drawn up on the same forms, and be capable of more intelligent comparison and study. The Wisconsin law also contains the following provision:

> Every railroad shall . . . file with the commission a verified list of all railroad tickets, passes and mileage books, issued free or for other than actual *bona fide* money consideration at full established rates during the preceding year, together with the names of the recipients thereof, the amounts received therefor and the reasons for issuing the same.

It is to be regretted that there is slight probability that such information will be forthcoming, for the facts requested would brighten materially the pages of the commission's annual report. It is very doubtful, however, whether the railroads will be able to find this information when it is wanted.

All the laws include in their scope private car lines, sleeping car companies and express companies as well as railroads proper. It is to be hoped that the inclusion of express companies will be taken more seriously than has yet been the case with any governmental agency. Street and interurban railways are excluded in Indiana and Washington, and street railways in Kansas and Wisconsin. Before long, the interurban roads, at least, will have to be subjected to more vigorous control, and it seems reasonable to place them under the jurisdiction of the state railroad commissions, as has already been done in a few states. Kansas, in connection with its legislation in opposition to the Standard Oil Company, gives to its railroad commission general supervision of the transportation of oil by pipe-lines, which are made common carriers. The commission is authorized to prescribe maximum rates for the transportation of oil.

Much might be said in criticism of our state railroad com-

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missions. It is a fair question whether in some states they have not done more harm than good. Their apparent inefficiency is, however, in most cases to be attributed to their limited jurisdiction and to the steadily growing importance of interstate commerce over which they have no control, as well as to the fact that much of their most enduring work in harmonizing the relations of shipper and carrier is carried on informally and never comes into public notice. Whether the commissions have justified their creation or not, the people are not prepared to abandon this form of railroad control until something more efficient offers itself. Therefore it is a source of gratification that the most recent legislation of this character should prove to be so conservative and so much in harmony with the best sentiment of the country on railroad questions.

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COMMUNISTIC SOCIETIES IN THE UNITED STATES

IT is not my intention in this article to write a history of communistic societies, but simply to point out some of the salient features of representative societies and draw certain conclusions concerning the movement as a whole. Due weight has never been given to modern experiments in communism, and recent developments both of the old and the new societies must necessarily alter the conclusions of early writers. Information concerning the early societies I have taken from the standard accounts, but information concerning recent societies I have obtained mainly from correspondence with officials of the societies or from articles in the communistic publications. Some record exists, often very meagre, of about one hundred attempts at community life; though probably many more have been started without ever having been recorded.[1]

With the exception of a few isolated attempts, these societies naturally fall into four groups:

First, the Owenite group, including all the societies started under the inspiration of Robert Owen. Fourteen[2] of these societies were organized, all but two of which belonged to the years 1825–1826; but none were of long duration. Secondly, the Fourierist group, comprising twenty-seven societies, established in accordance with the the theories of Charles Fourier. This movement began in 1843 and lasted about ten years, the societies being somewhat more successful than those of the Owenite period. Thirdly, the societies organized during the last fifteen years under the influence of modern socialistic and coöperative theories. This group includes twenty or more communities. Fourthly, the religious societies founded by persons who belonged to a particular sect, comprising twenty or more, and including some of the oldest and most successful

[1] Dr. Albert Shaw, in writing his history of Icaria (p. 186), says that he came across traces of about fifty attempts at communism.

[2] Lockwood says there were nineteen, but ten of these were the various groups on the New Harmony estate. Lockwood, The New Harmony Communities, p. 216.

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communities. In most of these cases, communism of property was not adopted at the start, and has always been of secondary importance in their systems.

It will be worth while to note the characteristics of each of these groups and to study the experiences of the most important societies before attempting to draw general conclusions with regard to the movement as a whole.

Robert Owen began his experiments in this country in 1825, when he was at the height of his popularity. He had been eminently successful in his work among his employees at New Lenark, and none of his European societies had been started.[1] He consequently began his work in this country with an attractive philosophy and with the appearance of having successfully applied that philosophy. Owen's theory of life, which resulted from his experiences at New Lenark—that a man's character was made not by him, but for him, by circumstances over which he had no control—was altogether too general to apply to a communistic society. He went on the supposition that the response to environment would be immediate and that the environment in a communistic society would be ideal.

The most important of the experiments of this period was that at New Harmony, Indiana, conducted by Owen himself. The location was a most favorable one. The Harmonists, a religious communistic society, were just moving from Indiana to Pennsylvania, and Owen obtained their entire plant, land, buildings and machinery, for $140,000. This gave the means ready prepared for carrying his plans into execution. Serious mistakes, however, were made at the start. Owen was rash enough to issue a general invitation to become members to all who were in sympathy with his ideas on founding a new state of society. In response to this invitation about 900 persons flocked to New Harmony, representing every state in the Union excepting two, and nearly every country in northern Europe. The experiment attracted educators and scientific men on account of the freedom of religious belief, but it attracted idlers

[1] The experiment at Orbiston, Scotland, was organized in 1825; that at Ralahine, Ireland, in 1839; and the two farms at East Tytherly, England, in 1840. The one at Ralahine existed for three and one-half years, the others for two years.

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also who were merely waiting for something to turn up. Some came out of curiosity, others to have a good time, others to live without work and still others to make trouble. One dishonest speculator induced Owen to sell him 1500 acres of land "with all thereon," as the contract read. Then the night before the contract went into effect the purchaser moved on to his own land all the farm implements and live stock that he could find.

It was the purpose of Owen to form a preliminary society to educate the members in the tenets of communism. The final society was to include those persons only who had full confidence in each other. Having formed the preliminary society, Owen returned to England for a time, leaving the direction of affairs in the hands of a committee. During his absence the society drifted. After his return, however, matters improved somewhat under his experienced guidance. Nevertheless, he was induced to found the final society of absolute equality too early and all members of the preliminary society were permitted to join. Almost at once disintegration began, through the withdrawal of some of the best members to form a new society, and disintegration continued until the final dissolution two years later. The true cause of failure seems to have been the intimate association of large numbers of persons who were incompatible. Owen himself attributes it to the poor material. A list of admonitions given to the society by the directors evidently points to some of their weaknesses.[1] Some of the more refined members objected to making the equality with the rude and uncultivated elements too intimate. At one time the complaint was made that "industrious members have been compelled to experience the unpleasant sensation of working for

[1] Lockwood, The New Harmony Communities, p. 137. "There must be no abuse, growling or loud talking, and no grumbling, carping or murmuring against the work of other individuals; those who shirk their work are deserving of pity; distinctions in eating and drinking among the members must be discarded; children must be excluded from the dining room during meals; adult members should not stalk about the room during meals; the intemperate must never be abused; when individual members are 'affected with the disease of laziness' the utmost forbearance must be necessary; criticism should not be resented; cleanliness and regularity must be enforced; 'no anger ought to be felt against the female members upon their aversion to the work of the coöperation; or when they brawl, quarrel or indulge in loud talk.' The children, however, should be taught better."

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others who are either unwilling or unable to do their share of the labor."[1] Drunkenness also was a source of great annoyance. Owen tried to forbid the use of intoxicants altogether, but without success. In fact one member was admitted to the society whose chief possession turned out to be a barrel of whisky which he concealed in a cellar and secretly gave to the members.

As early as the spring of 1827, two years after its founding, the failure of the attempt at New Harmony was admitted. Various groups of persons who had felt themselves in accord with each other had withdrawn from time to time, and founded new societies on land adjacent to the original society, so that in 1827, when communism had been abandoned at New Harmony, a ring of communistic societies existed around the parent society and of these there was still great hope. With Owen's departure soon after, however, the adjacent societies gradually died out.

This early experiment at New Harmony illustrates only too well the difficulties of many later societies, although perhaps the problems arising from discordant membership were somewhat extreme. Of the other societies started under the Owenite movement none was more successful, and none was more instructive, than this first experiment at New Harmony.

We may, therefore, pass to the consideration of the much larger movement in the middle of the century which owed its origin to the doctrines of Charles Fourier. The theories of Fourier were not communistic, although his social reforms were to be made through the establishment of colonies, or phalansteries, of from fifteen hundred to two thousand persons each. At least nothing was to be attempted with less than five hundred persons. The inhabitants of a phalanx were to fall into series and groups according to their natural attractions for each other and for different kinds of work. A series was to be composed of from seven to nine persons of similar tastes who should devote themselves to a particular line of work, such as the care of apple trees; and several series were to unite to form a group which should

[1] Lockwood, The New Harmony Communities, p. 137.

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take charge of a larger division of work, like the care of all fruit trees. Distribution of products was to be in accordance with exertion, talent and capital; five-twelfths was to go to labor, four-twelfths to capital and three-twelfths to talent. Labor was to be divided into three classes, the necessary, the useful and the agreeable—the necessary to be paid at the highest rate.

Fourier, unlike Owen, never attempted a practical demonstration of his principles. One or two partial experiments were tried in France before the author's death in 1837, but these, Fourier said, never satisfied his requirements. The movement in the United States began in 1845 and was led by Albert Brisbane, who wrote a popular treatise on Fourier's doctrines and succeeded in enlisting Horace Greeley and Parke Godwin in the movement. Of the numerous experiments in the United States, nearly all were started hastily with insufficient capital and housing accommodation for the members and with the number of members far below the lowest limit set by Fourier. In other words, most of the experiments were expressions of sentimental enthusiasm for new doctrines rather than deliberate attempts to test a new social system. In fact, it may be said that Fourier's system has never been tried; the *Familistère* at Guise, which is considered the single survival of the Fourierist movement, is by no means a self-sufficing phalanx such as Fourier advocated. The experiences of the so-called Fourierist societies, were, however, varied and instructive.

Poor location was the cause of failure in some cases. Of this class was a society in which Horace Greeley was interested, named Sylvania. It was to have been an agricultural community and three hundred acres of land were purchased. But the site was chosen in the spring of the year before the snow was off the ground, by a committee consisting of "a landscape painter, an industrious cooper and a homœopathic doctor." Some of the land proved to be so poor that it yielded no more than the seed sown, and the place was deserted in a year and a half. Nearly all the Pennsylvania experiments were unfortunate in their location. The societies invested heavily in land and the greater part of it was of poor quality. Seven asso-

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ciations are credited with 48,694 acres. They were attracted by the low price. The One Mentian community paid only sixty-five cents an acre for its land, but found it dear at any price.

By far the best known experiment of this period was that of Brook Farm, which deserves mention here for two reasons. First, the members were decidedly superior to the great majority of persons who have engaged in communistic enterprises. Nordhoff insists that communists should be compared with the class of mechanics or even with the ordinary workingmen in the cities, or with the farming population in the country.[1] In this respect Brook Farm cannot be included with other communistic societies, although after it became a phalanx in 1844 its membership became somewhat more commonplace. Secondly, the members remained harmonious to the end; hence we may call the experiment a social success. Brook Farm was weakest on its financial side. Few of the industries, outside of the school, paid; and this fact was discouraging to the members. The change from an independent settlement to a Fourieristic phalanx was made partly to give it new life. Although the location was not very advantageous, the experiment would probably have lasted longer than it did, had it not lost its chief building by fire as it was nearing completion.

The most successful society of this period, as far as age is concerned, was the North American Phalanx, established in 1843. This society lasted thirteen years—a very creditable age, considering that most communistic societies die in infancy. The North American Phalanx achieved moderate financial success, the property at the time of dissolution bringing sixty-five cents on the dollar. During its active life wages varied from six to ten cents per hour, about five per cent was paid to capital, and after nine years an extra dividend was declared to labor. Ability received five cents a day extra, but this was not enough to attract as much skilled labor as was needed. The members generally admitted that they could have made more outside the phalanx and the young people were often attracted to the larger opportunities in the competitive world. The members

[1] Charles Nordhoff, Communistic Societies in the United States, p. 406.

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were never very harmonious. Some wanted central administration, others did not. Some were vegetarians, and had to eat at a separate table. Some of the women were dress reformers, and strange sights were seen. The differences finally culminated in a division, and a second community was founded, which naturally weakened the first. Later, religious differences seriously disturbed the community. The immediate cause of dissolution, as in the case of Brook Farm, was the destruction of property by fire. Horace Greeley offered them a loan to make good the loss, but the sentiment of the members was against further continuance. The North American Phalanx had outlived the movement that gave it inspiration. Enthusiasm had waned; people were interested in other things. It was the sole survivor and, feeling its loneliness, it decided to go the way of the world.

The most important Fourieristic experiment after the North American Phalanx was the Wisconsin Phalanx, which has been described as "pecuniarily successful but socially a failure." It even paid a premium on its stock at dissolution. It made the mistake, along with many other societies, of building a large unitary dwelling, which is economical in material but wasteful of nerve force. This was one of the few societies in which discord arose over the unequal remuneration of different classes of laborers, for the Wisconsin phalanx attempted to put Fourier's theory of distribution into practice.

The experiments in western New York are of interest also because the attempt was made to carry out Fourier's theories in as great detail as possible. A confederation of phalansteries near Rochester was formed, known as the American Industrial Union, and the Fourieristic classification of industry was carefully made; but, as none of the associations lasted two years, the detailed organization came to nothing.

Coming now to the modern period, we note that the communistic and socialistic experiments are supposed to represent more scientific theories of social reorganization than those of previous periods. Doubtless the experiments have been planned with more care and foresight than were most of the

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earlier attempts, and yet the difficulties have been similar. Friction arising from life in the unitary dwellings has been experienced anew, divisions over the method of government and over the enforced equality of unequals are always making their appearance. The migration of eccentric characters from one society to another, and the appearance of the ideas of vegetarianism, of free love and of dress reform, all tend to create a similarity between recent experiments and earlier ones.

The most notable communistic experiment of recent years has been Ruskin, established in 1894 in Tennessee. This community was founded by J. A. Wayland, the editor of a socialistic paper, *The Coming Nation*, to demonstrate socialism; but it was never purely socialistic. All adult labor was paid at the same rate according to the time employed. A membership fee of $500 was demanded of new members, this being held to represent one share of stock in the corporation.

For several years Ruskin showed an enormous vitality very promising of success, for it passed through almost every trial to which communistic societies are exposed. In the first place it was a pioneer society, and, with the exception of the printing plant of *The Coming Nation*, it had all its industries to establish and its lands to clear. The discouragement of this pioneering period would have been too much for many a society to survive. Yet, while starting with the value of a printing plant, tools and all materials contributed by members, estimated at only $18,000, five years later the wealth of the community had increased to $94,000.

But Ruskin, like most communities, had to stand the trial of division among its members. It occurred over the question of individual or social ownership of the printing plant, and resulted in the withdrawal of the founder of the society and the former owner of the printing press with a large contingent of followers. The printing press was left with the society for a consideration of $2,000 in the stock of the colony. This occurred only a year after the founding of Ruskin. The next year, too, brought its trial. It was discovered that the location of Ruskin was absolutely unfitted for agriculture, and the whole colony had to be moved to a better location some

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six miles away. Later still another division among members occurred, this time over the theory of anarchism, which some of the members wished to substitute for socialism. And to add to the strife this same faction advocated and attempted to spread the doctrines of free love. The struggle between the two factions became severe and was embittered by personal jealousy. In Ruskin, as in other societies, persons of different social position found it hard to live together for any length of time on intimate terms. The uneducated were scornful of the educated, while the refined found continued association at meals and in social and business meetings with their coarse and stupid comrades most exasperating. Hatred between factions became so great that it has been impossible to get an unbiassed account of the trouble from either side. We do know, however, that the anarchists, who belonged to the minority party but among whom were some of the oldest members, were forced out of office. As they said, they were determined to "rule or ruin;" and they finally succeeded in having an injunction served upon the society and in forcing dissolution by means of a receiver. This occurred in June, 1899. Some 250 members were determined to stay together. Accordingly they allied themselves with a struggling communistic society situated in Georgia, remained with them two years, quarrelled again and broke up $6000 in debt. Half the members got employment under a contractor of convict labor.

The social success of Ruskin certainly was not great; its financial success is more difficult to estimate. Improvements were made rapidly and the plant increased greatly in value. Yet of its estimated value of nearly $100,000, the 250 persons who went to Georgia, received, after paying all costs, only about $3,500 in all. Ruskin seems to have suffered from lack of skilled management. Its members did not lack power of production so much as skill in marketing products. Its chief industries, aside from agriculture, were printing and cabinet-making, the manufacture of suspenders, cereal coffee, flour and chewing gum. The sale for these products was apparently always good, although this may have been partly on account of the character of the agent, who, though popularly known as

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the buyer, made his reputation as a seller. Indeed, he had a mania for selling. It is said he would sell anything whether he made a profit on it or not. One year he sold all the Ruskin wheat crop for 70 cents a bushel, and later on the colony had to buy its own supply for 90 cents. Finally he sold the job press, which had cost $1,100, for $356 worth of machinery—a transaction which paralyzed the capacity of the printing plant.[1]

The Ruskin directors were unaccustomed to the handling of large sums of money, and the funds were not spent wisely. During five years the membership fees alone amounted to about $60,000, a large proportion of the total value of the property, yet the debt on the land was never paid. During the later years of the existence of the community many of its industries declined from lack of interest, and the directors relied upon new membership fees and gifts from friends rather than upon increased production. The bookkeeping, also, was carried on in a slipshod manner, the monthly accounts seldom balancing. Some of the members were not at all disturbed by such unbusinesslike methods, feeling that bookkeeping and accounting were business methods in vogue under competition, and their very reason for coming to Ruskin had been to get rid of the methods of capitalism.

To an outsider the chief troubles at Ruskin seem to have been due to the jealous dispositions of a group of the older members. They were first dissatisfied because the founder retained his rights in the printing plant, and later they were jealous lest the new members should get the control into their hands. We can easily understand that it would have been hard for these older members to see the control pass into the hands of new members who might wish to change the policy of the society. But new members, admitted upon the same basis as the old, must of necessity be given equal rights in directing the affairs of a community. The society was evidently so anxious to get the $500 membership fee that it did not exercise sufficient precaution in selecting new members.

I have dwelt at length on the experiences of Ruskin because

[1] Isaac Broome, The Last Days of Ruskin, pp. 109, 141.

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this community illustrates so many of the difficulties of colony life. But the modern movement has further illustration from other kinds of experiments.

In 1895 the Brotherhood of the Coöperative Commonwealth was established. This was an association of about three thousand members altogether, with branches in different parts of the country, and its objects were twofold: first, to give a practical demonstration of the principles of socialism by establishing colonies; and secondly, to concentrate the socialistic movement in a particular state and endeavor to capture that state for socialism. The state of Washington was selected as the most likely prey, and in 1897 a call was issued for all socialists to migrate to Washington and assist in establishing a coöperative commonwealth. The Brotherhood hoped for about one thousand volunteers; but in the course of time one hundred and fifty persons assembled on Puget Sound, established in the wilderness a colony named Equality, and began the usual struggle with nature and individual selfishness. The society has six hundred acres of land, ninety of which have been cleared. The chief industries have been farming and lumbering. During the first few years the members had very hard pioneering work with a scant income, but the location proved to be exceptionally good and they finally obtained fair returns. The difficulties at Equality have been primarily of a social nature, and they are highly instructive for the student of communism. The colony started on the basis of absolute equality, which the members interpreted to mean submission to no authority. It was found necessary, however, to introduce one inequality after another, and enforce them by means of fines or other punishments. Then arose a great competition for the places of authority in order to direct instead of being directed. During this period experience taught the members many valuable truths. Among other things it was found that to profess socialism does not prove that one is wholly altruistic. At the end of the second year of its existence it was estimated that thirty-five per cent of its members were conscious collectivists, fifteen per cent conscious individualists, and the remainder without philosophy of any sort. And one of the members de-

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clared that in those two years he had learned more concerning the weaknesses and peculiarities of human nature than in the forty-two previous years of his existence. The amount of individualism that can masquerade under the guise of socialism was a revelation to many. The two hardest lessons that these colonists had to learn, it was said, were, first, that they were working for themselves, secondly, that they must produce before they could consume. Any colony which succeeds in teaching its members these truths cannot be called an entire failure.

Dissatisfaction increased over a system which attempted but could not realize equality, and the society suffered greatly from the withdrawal of members. The membership was reduced from one hundred and sixty-two, in 1899, to thirty in 1904.

At this time the society was captured by the Freeland movement and the members voted unanimously to adopt the system of Theodore Hertzka,[1] which is supposed to permit the greatest possible amount of individual freedom and at the same time give the whole value of the product to the wage-earner. At the time of the change the members stated as a result of their experience, that communism was "unjust, unpractical and uneconomical."

Under the new system production is carried on by voluntary groups, consisting of one person or of many, which undertake the different lines of work, credit being granted free of charge by the association. The system went into effect January 1, 1905, the name of the colony being changed to Freeland. Seven groups have already been organized—dairy, orchard, clearing and agriculture, cereal coffee, apiary and baking, poultry and building. Each member receives a share of the products of his group according to the number of hours worked, although a premium may be arranged either for seniority or for ability. Considerable enthusiasm has been shown by the members in the new organization, and the change will doubtless infuse new life into the colony. It is very significant that, after eight years of struggle and friction under communism, relief should be sought

[1] Dr. Theodore Hertzka, Freeland.

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in a system of coöperation which is not compulsory, and which gives the maximum of individual freedom. The discouragement of the communists is voiced by one writer, who says: "Any system that does not eliminate coöperation and provides social harmony, is well received."[1]

One year after the founding of Equality, the Coöperative Brotherhood was organized for the purpose of establishing a coöperative colony which should furnish homes and employment for the members and should ensure a home in case of disability. The colony was established at Burley, Washington, on Puget Sound. The first plan, which was in operation until 1903, provided that the members of the Brotherhood, after paying one hundred and twenty-five dollars in monthly instalments, should be entitled to a home in the colony, although the board of directors had the power to select from eligible members those who were best suited to the needs of the community. All members of the Brotherhood had an equal interest in the property and improvements, but for the maintenance of the members of the colony a certain percentage of the monthly receipts was set apart, and each one received a proportion according to the number of hours he had worked. Notwithstanding the assistance which the colony received from its non-resident members, progress was extremely slow. The accommodations were rough, and it was hard to get the right kind of laborers to reside continuously at the colony, and to do the hard pioneering work. The membership of the Brotherhood decreased from nearly twelve hundred to one hundred and twenty-five, the present membership, and that of the colony from about one hundred and twenty-five to forty.

The difficulties at Burley, unlike those at Equality, were financial rather than social. This does not mean that the members were all satisfied or entirely harmonious, but certain educated members made the social life as much of a success as was consistent with their poverty. They persisted in having a good time, they said, until they remembered how poor they were.

[1] *The Coöperator*, February, 1905. Recent reports from Freeland show that the new organization has not been a success, owing to the poor quality of the membership. The society has not, however, disbanded.

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Debts, however, increased and enthusiasm decreased. The members became disheartened and it was felt that something must be done to meet the indebtedness. It was finally decided to lease the property for one year, beginning September 1, 1903, to one of their members. This member advanced money and became sole director of the colony, managing it like a private business on a profit-sharing basis. At the end of the year the colonists reorganized again on a coöperative basis, but they attempted to correct their previous mistakes by giving a greater amount of individual freedom, their opinion of compulsory coöperation being similar to that of Equality.

The failure of the first plan is attributed to many causes. The idle tried to live on the industrious, and the latter objected to sharing the products equally either with the idle or with the incompetent. Much blame, moreover, was laid on the management. The managing ability was doubtless mediocre, but the greatest weakness of the managers lay in the fact that they lacked authority to enforce their commands. Some of the workers objected to authority of any kind because it savored of exploitation. Furthermore, as the positions of the members were secured through payment of the membership fee, they could not always be given work for which they were best fitted, and they could not be compelled to do their best work, as the rules of discipline were not enforced. In short, it was agreed that strict coöperation was a failure with the ill-assorted material that came to the society.

The colony reorganized along Rochedale lines, stock in the Coöperative Brotherhood being exchanged for stock in the new company. The insurance feature of the Brotherhood was abandoned. The industries are now carried on by groups, and members of the Brotherhood may or may not be employed. Preference is given them provided they prove to be fit men for the positions. Each group has full control of the industry which it undertakes, such as agriculture or lumbering, and the returns depend more directly on individual labor. Profits are divided according to the amount of capital stock and of wages, or, in the case of the store, according to purchases.

The colony is now thought to be in good condition financi-

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ally, and the outlook for success under the more individualistic organization is encouraging. But Burley furnishes another example of a colony which finds compulsory coöperation impracticable with the laborers who desire to coöperate.

Another movement, which illustrates the present tendency towards large enterprises, was that of the Industrial Brotherhood, organized by the former secretary of the Brotherhood of the Coöperative Commonwealth. When the latter organization declined to microscopic proportions, the secretary withdrew and proposed another scheme of even greater magnitude. After his experience with the Washington colony he decided that coöperation should not be confined to a single state, but that various coöperative enterprises should be started in different parts of the country simultaneously and should federate and assist each other. He felt that the only way to compete with the trusts would be to organize socialistic enterprises on the same gigantic scale. He believed that socialism could be put into operation at once if the socialists only desired it, but that any attempt to do so would be useless without a sufficient financial backing. Consequently he issued a call for one million men and one hundred million dollars. As this call did not receive sufficient response the movement was abandoned; and the Brotherhood was absorbed by the political socialistic movement.

Some of the communistic experiments of recent years have been carried on by earnest, self-sacrificing men and women with the serious purpose of solving the social problem. Others have been pretentious schemes for sweeping reforms made by over-confident reformers. Others still have been ill-planned attempts of persevering but unpractical reformers, almost ludicrous in their development. The last class is illustrated by the communistic attempts of Alcander Longley, of St. Louis. He began his communistic life at the age of twenty-one, when, in 1853, he became a member of the North American Phalanx. He left this community to become a founder of colonies. By 1865 he had founded three successive colonies, and their failure neither damped his ardor nor destroyed his faith. After that he was for a time a member of Icaria. But his desire to be a

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leader in the movement caused him to leave Icaria and start a paper in St. Louis for the propagation of his communistic ideas. By 1883 he had founded three more societies, which went the way of their predecessors. Then, not wishing to complicate matters, he began to resurrect old societies instead of founding new ones. Mr. Longley owns forty acres of unimproved land not far from St. Louis, and he wants one hundred men to live on this land and enjoy the advantages of communism. Now and then he succeeds in getting two or three men, or a family, to try to improve the land; but up to the present they have remained so brief a time that little has been accomplished.

To get the more hopeful side of community life, we must now leave these three periods of experiments and turn to the group known as the religious societies. These societies must be counted both as the most successful and the longest lived. The six most important of this group have had an average length of life of 95 years. These are: the Perfectionists of Oneida, New York, who came together in 1848 and gave up communism to become a joint stock company thirty-three years later; the Separatists of Zoar, Ohio, who started in 1817 and became individualistic in 1898, eighty-one years later; the Amana Community of Iowa; the Harmony and the Ephrata societies of Pennsylvania; and the Shakers. The last four of these are in existence to-day. The Amana community is sixty-two years old, the Harmonists one hundred and two years old, the Shakers one hundred and eighteen years old, and the Ephrata society one hundred and seventy-three years old.

Although Ephrata is notable on account of its age, from the standpoint of communism little of interest has been connected with it since the death of its founder in 1786. Once it contained three hundred members, but now it has only seventeen.

The Shakers are perhaps the most widely known of all these communities because of their numerous branches. At present they have seventeen societies in nine different states (Maine, New Hampshire, Massachusetts, Connecticut, New York,

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Ohio, Kansas, Georgia and Florida), with a total membership of about one thousand. In 1878 there were twenty-four hundred Shakers, and at one time there were as many as five thousand. As celibacy is one of their religious principles they must rely upon the outside world for new members, and most of their permanent members have come to them after periods of great religious revival and are persons of serious religious convictions. The Shakers adopt many children, but the majority leave them before they are twenty years of age. The Shakers own much land—more land, they say, than is profitable for them to hold. In other ways they cannot be called rich. Much of their property has declined in value, and they have met with losses by fire. Their communism has been successful; but, as is the case with other religious societies, it has been secondary to their religious life.

One of the oldest and most prosperous of the religious communistic societies is the Harmony Society of Pennsylvania; but as its members, like the Shakers, are celibate, they do not serve as the best example of a religious community. This community is the one which sold its first site in Indiana in 1824 to Robert Owen for the establishment of New Harmony. At that time the Harmonists formed an industrious village of one thousand souls with profitable industries, including cotton, woolen, and silk mills, orchards and vineyards. Now the membership is reduced to five, most of their houses are let to outsiders and the greater part of the industries are carried on by outsiders. Although for many years the community has been characterized by a peaceful and uneventful life, it has passed through trials which would have ruined most societies. Doubtless, therefore, it was their religious life alone which kept them together. This society, like most of the others, began its life with pioneer work, and the first years were years of hard, unremunerative toil. During these years dissatisfaction was felt, and many withdrew with their property. Internal dissensions also injured their credit. But the first leader of the society, George Rapp, was a man of ability and one in whom the majority regarded with implicit confidence. Through his religious leadership largely the society persevered. The progress of the society

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has been impeded also by its unfortunate choice of locations. It has moved twice, but without serious losses. In 1831 the leaders were deceived by the entrance of a false prophet into their fold. He won many followers and, when the inevitable break came between the new prophet and the old, the former withdrew with two hundred and fifty followers and a settlement of one hundred and five thousand dollars. This, of course, weakened the society, although their prosperous state is shown by the fact that they were able to pay the full amount in a single year.

Later on a more subtile enemy seized the society in the shape of a desire for speculation. Some of the younger members were not content with moderate prosperity, but wished to keep up with the race for wealth in the outside world. The discovery of oil on their land only increased this desire. Their speculations, however, were not successful. A business depression followed, which brought about the closing of some of the industries. Some of the members withdrew and litigation arose over their rights in the common property. Aside from actual losses, a poor system of bookkeeping complicated the affairs of the society and in 1892 it was in debt for over a million and a half dollars. A new manager, Mr. Duss, appointed in 1891, has shown great ability in putting the society upon a firm financial basis again. He has been greatly annoyed in recent years by repeated law suits from former members or their relatives, to obtain a share in the property; but thus far all suits have been decided in favor of the society. Most of the remaining Harmonists are now well along in years. In fact, the active communistic society has already passed away; interest now centres upon the final disposition of the property.

The best example of a communistic society now existing in the United States is that of the Amana Community in Iowa. This community contains seven small villages, with a population of nearly eighteen hundred; and these, unlike the Shaker villages, are united into a single communistic system. The history of the Amana community shows that it has experienced fewer hardships than many communities, but has not benefited by the exceptional managing ability that the Harmonists have

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had. The Amana Community moved once, from western New York to Iowa, but the change was a gain rather than a loss because the market value of the land in New York was much greater than that in Iowa. The society now owns twenty-six thousand acres of land and, in addition to farming and gardening, it carries on several mills, including a calico print factory and two woolen mills. Work in the Amana factories is in pleasing contrast to work in ordinary factories. No children are employed, seats are provided for women, and the effort seems to be to make the work as pleasant as possible. Furthermore the same individuals do not work all the time at the same employment, but give their services where they are most needed. Women do not work in the mills on Monday, for that is washing day, and in harvest time they may be found in the fields. The community employs from one hundred and fifty to two hundred outsiders to help carry on the industries, and they admit that a hired laborer performs much more work than one of their number; but the members prefer the greater comfort to the increase in wealth.

The method of distributing the products at Amana is noteworthy, because this is one of the few communistic societies which recognize differences in needs among adult members. Families occupy separate houses and take their meals in common dining rooms accommodating from thirty-five to fifty persons. Food is carried, however, to those who are not able to come to the dining rooms. In addition to their food, individuals are given credit at the store in amounts varying from thirty-five to seventy-five dollars a year. It is recognized that persons following certain occupations, as, for instance, that of a physician, require more goods than ordinary day laborers. It may easily be imagined that a maximum difference of forty dollars a year will not produce glaring social inequalities. In fact, the purpose seems to be merely to give necessary efficiency to different occupations.

The wealth produced at Amana is probably not so great as would be produced with the same labor and capital under competition. Ordinarily the accounts show a small balance in favor of the society, but sometimes there is a deficit. Their

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wealth has been derived largely from increased land values. In fact the property-holding in Amana is somewhat less per capita than the holding in the rest of the same county or in the state as a whole.[1]

Marriage is not esteemed so highly in the community as celibacy, yet marriage is commonly practised, and, as the members are of good German stock, babies have never figured as an annual deficit. It is thought advisable to place an age limit on marriage: men are forbidden to marry under twenty-four years of age and women under twenty. Upon marriage a couple lose caste in the church, but may regain it if they can prove that it has not interfered with their spiritual development.

As Amana is the most prosperous communistic society in the United States, and probably in the world, the conditions contributing to its success should be carefully noted. First, communism at Amana is not the chief object of the society, but is only one part of an all-important religious belief. Secondly, as belief in certain religious dogmas is a requisite for membership, Amana has escaped those unsuitable members who have proved such a burden to most communities. New recruits have come usually from Germany and have been made to serve a probationary term of two years. Furthermore, as marriage is permitted, the society has increased from within. Members have not been obliged, like the Shakers, to adopt children who have turned out to be poor material. Thirdly, the society has been composed of individuals of the same race, the same belief, and, for the most part, of the same social position. All have been immigrants in a strange land and have found it essential to keep together. German is the language ordinarily used in the community, although both German and English are taught in the schools. Fourthly, the membership is composed of a class of Germans who are accustomed to hard work and are satisfied with plain living.

Another religious society, similar to Amana in many ways, is that of the Separatists of Zoar, Ohio. This society is of interest because it voluntarily abandoned its communistic features

[1] See Bulletin of the Department of Labor, no. 35, p. 586.

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in 1898 at the request of the younger members. Without attempting a description of the society itself, I wish to consider the causes of dissolution and also some of the results.

Zoar, like Amana, was founded by a German religious sect. Nearly all the members were German and they required a preliminary trial before admitting an applicant to membership. Marriage was permitted in the community. The society was much smaller than Amana, numbering two hundred and twenty-two at the time of dissolution. During the life of the founder, Joseph Bäumeler, the Zoarites amassed considerable property; but after his death in 1853, their industries were less productive and their property declined in value. In fact at the time of its dissolution, the society was running seriously behind. It was able, however, to distribute about $1500 worth of property to each member, but in its most prosperous period it was said that the per capita wealth amounted to twice that sum.

Mr. Randall, one of the historians of the society,[1] visited Zoar just before its dissolution and gave an interesting account of the causes of dissatisfaction. The older members were happy and contented, finding their life free from care and from excessive work; but the younger members had lost the religious faith of their ancestors. They had seen something of the world and were restless. Their contact with the outside hands employed at Zoar, about fifty in number, is said to have been injurious to them. Members in one way and another began to earn money outside the community, and small individual possessions gave them the desire for more. With the taste for individual wealth grew criticism of the system of equal payment for unequal work. Some members thought they had the difficult tasks, and were dissatisfied because others got off with easy jobs. The baker thought there was no chance for a young man. He had worked for years and had nothing to show for it. The shoemaker thought it was not according to nature to work for others. Many admitted that communism was wasteful, especially as to food and fuel. Articles that came easily and plentifully were not sufficiently valued and there was no incentive to economy.

[1] E. O. Randall, The Separatist Society of Zoar.

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After Zoar became individualistic, Mr. Randall paid it another visit and noted some significant changes. A long-distance telephone at the hotel first caught his eye; near by hung a penny-in-the-slot chewing-gum machine. Across the street an ice-cream parlor had been opened. Houses had been repaired, streets had been named and the village had taken on a more modern air. Even domestic life was becoming up-to-date, for the first divorce in the history of Zoar had been applied for. Competition had crept in in the shape of a rival shoemaker. Some admitted that they had to work harder; but the younger element at least were pleased with the new ways and enjoyed saying: "This is mine."

Another successful communistic society was that of the Perfectionists of Oneida, New York, founded in 1848 by J. H. Noyes. Although the society was founded primarily on a religious basis, Noyes was a student of communism and had definite theories concerning the essentials for success in communistic life. Oneida had three characteristics which distinguished it from other communistic societies. First, the society was not agricultural but was predominantly industrial. Noyes believed that agriculture was not a good means of obtaining wealth, and that members of communistic societies were not always fitted for agricultural pursuits and might be better employed in a diversity of industries. The great weakness of the early societies he attributed to large property in land. Secondly, the system of complex marriage was instituted, by which the family was coextensive with the community. Along with this went Noyes's idea of stirpiculture, or scientific propagation. The religious basis for this community of the family need not be discussed here, though it should be noted that the Perfectionists maintained that all the important characteristics of the family were preserved, namely, permanence of the union and responsibility in the protection of women and in the maintenance and education of children.[1] From the standpoint of communism alone, it should be noted that this system fulfils a need which has been held by many to be essential to

[1] See J. H. Noyes, History of American Socialisms, p. 639.

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the success of communistic life. It is said that the family forms a centre of selfish individualism, which is inconsistent with communism and will eventually disrupt a community. This centre is destroyed alike by a system of celibacy and by a system of community of wives. The Shakers and Harmonists chose the former, the Perfectionists the latter. The religious belief decided which form should be adopted. In the one case the society must rely upon adoption for future members, while in the other case the society may be self-perpetuating and, to that extent, may have the better chance for survival. Thirdly, Noyes instituted the system of mutual criticism in which a man offered himself freely for criticism to all persons who wished to give it.[1] When a man is frankly told his faults by persons with whom he daily associates, the force of public opinion is used in all its strength to adapt a man to his environment. In a new environment like that of a communistic society, those characteristics which are particularly inconsistent with communism would be subject to strong criticism, and hence be eliminated. Under wise leadership the system of mutual criticism might be a very valuable aid in adapting persons to a new social life.

The characteristics of the Oneida Community were evidently such as required a wise leader who held the complete confidence of the members. Noyes was such a leader. During the thirty-three years of its existence the society enjoyed exceptional harmony and prosperity. The immediate cause of the withdrawal of Noyes from the society and of its reorganization into a joint stock company was the opposition aroused by the Presbyterian clergymen of New York against their social practices. Other forces were at work, however, to weaken the society. Noyes's influence over the younger members was not so strong as it had been over the older members in the beginning, and the religious life of the community was weaker. Furthermore, it may be seen that, although the social practices were such as might be maintained without disruption of the society

[1] The Shakers also have a system of Confession to Elders, and the Amana Communists an annual *Untersuchung*, but neither of these customs is so effective as the Oneida "criticism."

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among a select membership thoroughly imbued with the religious principles of the sect and ready to follow the directions of the leader, they could not be carried out with a different membership less easily controlled by the leader. Had the Perfectionists not reorganized when they did, it is probable that they might be classed now with those religious societies which have broken up at the death of the leader.

One independent society, Icaria, ought to be mentioned because of its long existence of forty-seven years and its peculiar history. Before the dissolution of the last branch in 1895, Icaria was cited as an example of a successful society not on a religious basis and not celibate. The history of Icaria has been one of heroic struggle, of intermittent prosperity, and of bitter strife. Among the many misfortunes of the Icarians it may be mentioned, first, that they were deceived at the start with regard to the character of the location in Texas, and in moving from there to their next home in Nauvoo, Illinois, they suffered great hardships and loss of members. In Illinois division occurred over the question of method of government. Finally, in 1856, Cabet, the leader of the whole movement, was expelled and with one hundred and eighty followers withdrew to St. Louis. A week later Cabet died, but one hundred and fifty of his followers held together and in 1858 founded the Cheltenham community near St. Louis. This community six years later split up over the same questions that caused its separation from the parent society.

The majority left in the Illinois home were so weakened by the division that in 1860 they were obliged to give up the property to pay their debts, and they removed to southwestern Iowa, where some of the members had previously been sent to acquire rights to government lands. Here began a life of great toil and privation for the means to keep them alive and to meet their indebtedness. Within ten years party spirit again became manifest, and disagreements arose between the older and younger members over the general policy to be pursued. This ended in a division of the property and the formation of two separate societies. Later, an offshoot from the younger party formed the Cloverdale community in California. Finally

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these three branches simply faded away through lack of energy caused by frequent divisions and withdrawal of members. This, in brief, is the experience of a society which has been looked upon as an example of rational democratic communism. The society would doubtless have disbanded long before had it not been for the fact that they were religiously devoted to their principles and were a foreign band in a strange land.

From this glimpse into the history of a few representative colonies, we may pass to a general summary of the movement as a whole. The length of life of the great majority of societies has been very short. There are sixty-two societies whose ages may be obtained with approximate accuracy. Of these nineteen lived less than one year, although nine others whose date of closing is not known may with safety be added to this number. Ten lived from one to two years; ten, from two to three years; five lived four years; one, five years; three, six years; and one, eight years; eight, from ten to twenty-five years; and five, over thirty years. The more recent societies have endured somewhat longer than the earlier non-religious societies, as they have doubtless been organized with greater care. Societies of the Owenite period lived on the average one year and five months; those of the Fourierist period, two years and seven months; those of the modern period which have disbanded averaged four years; the independent societies lasted seven years, the high average being due entirely to the Icarian societies, and the disbanded religious societies had averaged twenty-four years each.

Ever since the time of Aristotle wise men have pointed out the inherent difficulties of communism, but for the most part the difficulties they have dwelt upon have not been the conspicuous causes of failure. Perhaps this is due to the fact that the system has been applied to small societies and has not involved a whole state.

John Stuart Mill gives the three following objections to communism. First, each person would be occupied in evading his share of the work. Second, there would be no prudential restraint upon the population. Third, there would be difficulty in fairly apportioning labor among the members.

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As to the first, evasion of work has certainly been a source of trouble, but apparently has not been a necessary result of the communistic system. Ten or twelve societies at least have been seriously troubled with idlers joining the colony and contributing more advice than labor. In fact, shiftless persons seem to be attracted to communistic societies in the hope of living on others; but such persons are products of the outside world. The communistic system as illustrated by the older societies tends to make the members take life easily, but experience does not show that it causes them to evade their share of the work. In fact, the Shakers say that the shiftless persons who join them for the winter only catch the spirit of the place and perform the work assigned them without shirking. The testimony of Nordhoff was that there were no idlers among communists; but it must be remembered that Nordhoff wrote for the most part of religious societies, which are the most successful of all. Apparent exceptions are to be found, however, as in the case of the Coöperative Brotherhood at Burley, where a man after paying his membership fee is entitled to a home and employment. Feeling that his position is secured and that he is the equal of every one else, he may disregard authority and may not always work to the best advantage.

As to the second objection, so far as I know, no society has been troubled with the great bugbear of over-population. Some have been handicapped in their pioneer stages by having families with large numbers of children join them. But none have thought of attributing their troubles to an excessive birthrate.

The third difficulty—that of apportioning the labor fairly among members—is a very practical one and has figured as a cause for dissatisfaction. The form it has taken, however, has not been a struggle for easy places, but discontent over the remuneration, whether equal or unequal, of different classes of labor. In this form it is closely connected with the first objection cited. In both the Yellow Springs Community and the Wisconsin Phalanx, it is mentioned as a cause of dissension, but was not of sufficient importance to be classed as a cause of

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failure. At Zoar, one of the numerous complaints was equal remuneration for unequal work. Other colonies also have been troubled to a greater or less extent over the question of method of remuneration. The reason it has not been of greater importance is probably because each individual who joins a community is convinced at the start that the method of distribution employed in that community is the ideally just one. In most colonies also members are permitted as much as possible to follow their own inclinations in the matter of employment. If dissatisfaction arises, the employment may be varied. On the whole, members have shown themselves willing to perform the work that was evidently necessary to be done.

Of the communities which have dissolved we have records of about fifty-four sufficiently detailed to show the causes of dissolution. It will be noticed that some of the failures given have nothing to do with the application of communistic principles, but may be traced wholly to the difficulties of establishing a home in an unsuitable place or by persons unaccustomed to pioneer work. In most cases the causes of failure were complicated, and it is often difficult to distinguish the primary cause from the secondary. Sometimes the causes were insignificant, almost accidental, showing that the society was never upon a firm foundation. For example, poor location caused three failures; sickness caused one directly and was a contributory cause in two more cases; lack of funds caused eleven failures directly and was the indirect cause in at least six other instances; absolute dishonesty was mentioned in only one case, although bad management was a secondary cause in a number of cases; legal difficulties troubled three societies. Among the important causes we find that four religious societies dissolved because of the death of their leaders. This is one of the greatest dangers threatening religious societies, for when the leader is also the prophet, his personality is often the real bond of union. In two cases comparatively successful societies have definitely decided in favor of individualism.

By far the most important cause of failure is lack of harmony among members. From one cause or another divisions arise. At least one-half of the fifty-four societies under consideration

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met their fate in this way, and it is probable that more would have been included if they had not met an early death in some other way. "General depravity" one writer calls it; "lack of superior beings" is the complaint of another.

The underlying cause of dissension as illustrated by recent experiments is the rigid character of the communistic organization. There is a lack of individual freedom and individual responsibility. All are bound together for a common purpose and are equally responsible, and in such a case it is much easier to blame others than oneself. Furthermore, the opinion of the majority, or of the governing body, whatever it may be, must prevail even in details. If one holds different opinions from the majority he is not at liberty to carry them out in his own case but must do as others do. This compulsion is a continued source of friction and is one cause of the fierce contest for places of authority. The reorganization of the Washington societies was intended to obviate this difficulty. In this particular the superiority of religious societies is manifest, for their religious doctrines require the subordination of the individual to the community.

The dangers inherent in the rigid form of organization are increased, however, by the queer mixture of people attracted to community life. Very eccentric individuals drift into colony life, and they are likely to migrate from colony to colony, thus increasing their relative influence. It is a wonder that they get along as well as they do. An over-supply of such persons brought suffering to a recent society in Georgia—the Christian Commonwealth. The founders had such a thorough belief in the power of brotherhood to transform character that they put down every restriction to entrance into the society and opened their hearts and doors to all who wanted to be loved. They really intended to invite all who had large enough hearts to love. Response to their call brought a curious lot, who were willing to be loved but not willing to be useful. The society was not rich enough to support parasites; but on the eve of its consequent dissolution, through the editor of its paper, it stoutly maintained that it loved the new-comers still, because they needed it so much.

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Vegetarians have made trouble in some societies, for they required a separate table and cast reflections on their brethren who ate meat. Dress-reform, with an apparent desire to look hideous, has been the hobby of some. Advocates of reform in the marriage relation have produced discord in many communities.

Even without the complication of cranks, however, dissension in communistic societies seems always to be threatening. The extreme intimacy of relation, resulting from the mode of life, tends to produce discord. Intimacy of life in a modern apartment seems to be as much as human nature can sustain; yet this is absolute privacy compared to the life in the unitary building of a communistic society.

Aristotle foresaw this difficulty of communistic life and gave the warning in his Politics: [1]

> As a general rule it is no easy matter for people to live together and enjoy any worldly goods in common, more especially such things as land and landed produce. This is evident from the case of people who travel together and keep a common purse. They almost invariably come to quarrels and collisions arising from common and unimportant causes. So, too, we are most likely to come into collision with those servants with whom we have most to do as they wait upon us in the affairs of every-day life.

The experience of communistic societies proves that if the intimate relationships are to be kept up, there must be some powerful force to keep the people together. Thus far only a religious tie has proved sufficient. Icaria is the only non-religious society which continued its existence for a long time, and that was divided through strife into five parts. Simple devotion to communism itself has never proved a sufficiently strong bond, for people advocate communism on the ground that it is superior to the present social conditions, and if they find it inferior their bond of union breaks and dissolution follows. It is conceivable that some other force than a religious one might hold a community together, and it is possible that a community of "superior beings" would need no extra bond. The Brook-

[1] Bk. ii, ch. v (Welldon's trans., p. 48).

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Farmers were harmonious, only they were not farmers. The point is that "superior beings" can get along under the present system. Those who fail under the present system are also unable to form a better.

Yet, after all, community life possesses a strong attraction for many. They enjoy the calm life, the absence from care and worry. This peacefulness of life is conducive to longevity, as has been noted by many writers. And the social equality gives an agreeable sensation. The older inhabitants of Zoar showed great regret at giving up the communistic life. Persons who have been members even of unsuccessful societies look back upon the experience as the happiest time of their lives. On the other hand, the life which one person finds peaceful another finds slow; what one finds free from care another finds unprogressive.

It is a noteworthy fact that the régime of communism, as well as the absolutism of the Russian bureaucracy, tends to the growth of anarchism. After the Owenite failures a strong reaction set in against communistic principles. Fifteen years after the dissolution of New Harmony, when McDonald, the historian of early communism, visited the place, he was cautioned not to speak of socialism, as the subject was unpopular. The reaction led to the two experiments of Joseph Warren—Utopia and Modern Times—based on the theory of individual sovereignty. In the midst of the socialistic propaganda in Washington, the Mutual Home Association, an anarchistic colony, sprang up. And later both Burley and Equality reorganized on a much freer individualistic basis. At Ruskin anarchistic sentiments became manifest early in the history of the society, and they were the chief cause of the dismemberment of the association. Free love doctrines which, one can hardly fail to note, accompany communism so persistently, indicate also one phase of the anarchistic reaction applied to the family relation.

The discontented who believe that the present organization of society is so hopeless as not to admit of reform are of three classes. Some, finding one extreme of social reorganization unsatisfactory, react in favor of the other extreme. Others will never admit defeat, but ally themselves with one attempt

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after another as often as the opportunity presents itself. The third class retires from the battlefield more gracefully, retaining their former convictions but admitting that the time is not ripe.

The question of the productiveness of communistic societies has been answered differently by writers of different periods. Nordhoff, writing in 1874, studied a period of great communistic prosperity and he believed that the wealth of the communists per capita was greater than the wealth of the outside world. The prosperity of that period was due largely to exceptional leaders among the older societies. After the death of these men their prosperity declined. As has been already noted, Amana has a smaller proportionate wealth per capita than the rest of Iowa. And it is doubtful whether communistic societies produce more wealth than is produced with the same labor and capital in the outside world. It is possible, however, that communists more than make up the difference in the ease and comfort of life.

It is difficult to make a fair comparison between communists and persons in the outside world. Nordhoff compared communists with the farmer and artisan classes, but members of the old societies should not be compared with farmers and artisans of the present time, for that would be going on the supposition that classes in the outside world had remained stationary. We should compare the inhabitants, say of Amana, with a similar company of laborers, or better of German immigrants, who also began their life here in the forties. If one could follow the history of such a company, he would probably find that some of the families had by this time gained considerable wealth, and their children would have the advantages of a college education. Only the least successful families would remain in the position in which they started in 1844. On the other hand, it is true that some of the families under stress of competition may have degenerated even to pauperism, but it is not true that extreme poverty has been common with the German immigrants of the forties; and those who have degenerated in the mean time do not come anywhere near offsetting those who have noticeably improved their condition. The

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communistic life has served to keep the members of the community near to a mean, but the level of this mean is certainly much below that of a similar company of persons beginning life in this country at the same time.

Communistic societies have often made a mistake in attempting to hold large tracts of land and make agriculture their chief industry; but this is a necessary part of their theory that communistic colonies should be as nearly self-supporting as possible. Communists think they are placed at great disadvantage in having to buy goods produced under capitalistic methods. Some attribute their slow accumulation of wealth to this fact. In general it may be said that communists greatly overestimate the socialistic idea of the exploitation of labor by capitalists. The coöperators at Burley thought that the burden of supporting the old and the disabled would not be noticeable when they were sure of the whole produce of their labor.

In abolishing industrial competition communism doubtless loses a social competition which is a stimulus to progress. While communistic societies often start out with the most advanced methods, the members soon become too well satisfied with their attainments. Successful societies withdraw somewhat from the world and lose the stimulus of the world's progress.

Apparent exceptions to this statement are of two kinds. First, communistic societies are able to use labor-saving devices in kitchen or laundry work, for example, where they could not be used in small families. This certainly tends to economy of labor. This progressiveness, however, is due to the fact that they cater to large numbers instead of to small. Nordhoff complains that some of the communes do not use labor-saving devices so much as they might. Secondly, in a number of cases communes have taken the lead in introducing advanced methods. An advanced system of education was introduced into New Harmony. The first electric telephone to be used in the state of Iowa is said to have been used at Icaria. Both the Shakers and the Perfectionists acquired a reputation for their inventive genius. It is quite possible that inventions might be stimulated as much under a communistic as under an

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individualistic system; but many of the advanced methods used in communistic societies, such as the educational system of New Harmony, may be traced to exceptional individuals who join the societies. Such signs of progressiveness are more evident in the early than in the later years of communes. Notwithstanding these exceptions, the abatement of individual competition in communistic societies has in the long run removed a stimulus to progress, as is well illustrated by the history of Zoar.

Another important consideration is the effect of communism on the mental life and upon the desire for higher social attainments. The evidence on this point may seem somewhat conflicting, but on the whole it shows that communists are likely to be satisfied with the acquisition of necessities and with sensuous enjoyment. Members of the Skaneateles Community and of the North American Phalanx became satisfied with moderate material achievements. At Bethel and Aurora, and in most of the German religious societies, intellectual and artistic achievements and even the higher forms of pleasure were not valued. Much depends, however, on the character of the people who make up the communities. The Perfectionists made much of their intellectual life, and the Brook Farmers certainly left nothing to be desired in this respect. Many of the members of recent colonies, such as the Christian Commonwealth and the Coöperative Brotherhood are above the average in intellectual attainment, and the social and educational life of these societies is of considerable importance. But here again we must be careful to distinguish between the character of the men who join the colony and the effect of communistic life on the character of the members. Present-day socialists are men with ideas. They read and think, even though it may be in a narrow range of subjects. The real point to consider is whether, after the satisfaction of the material wants, the desire for æsthetic and intellectual pursuits is as likely to develop under communism as under competition. The weight of evidence seems to be against this. The rivalry of competitive life causes progress in intellectual lines apart from the simple desire for intellectual activity. In the compet-

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itive world progress along intellectual lines is usually accompanied with greater efficiency and hence by advance in economic position. But in a communistic society no amount of intellectual attainment will give a man a greater income than his fellow members. In this sense, then, intellectual progress is separated from material progress. Intellectual pursuits might still be carried on for their own sake; but, if no special distinction were given to the more intellectual members, progress would be slow. The truth is, we do not usually become proficient in intellectual lines because we enjoy them; but we begin to enjoy them after we have obtained some proficiency. Much of our intellectual progress is due in the beginning to some other motive than pure love for the work, and these other motives are largely eliminated in communistic life. Desire for distinction and for social position are perfectly normal motives for activity, if they can be turned into the proper channels. In communistic societies these desires are too often limited to obtaining positions of authority on the board of government. In communism, therefere, where the principle of equality reigns, it may be said that the desire for distinction is generally weakened; but, in so far as it exists, it does not serve to develop the individual, but tends to cause struggle, often leading to strife among individuals for positions. On the whole, it is true that intellect in communistic colonies is not highly valued, although exception may be made of religious societies where the members reverence their spiritual leaders.

Another important point, seldom considered by writers on communism, is the possibility of the communistic organization passing safely from generation to generation. It has been assumed that if a communistic society existed for twenty or thirty years the success of the system was demonstrated; but no system has proved its suitability to the needs of society until it has shown that it is sufficiently elastic to adapt itself to the more liberal and diverse views of the on-coming generation. This period, which marks the greatest progress in social institutions, is the final critical point with communistic colonies. A communistic society, especially one founded on a religious basis, may select members who are sufficiently harmonious to

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live together all their lives; but their children will not be selected in the same way. They are members from force of circumstances, not from conscious choice. They will tend to represent again the normal amount of variation. They are not united because of similar beliefs, and it is highly improbable that a group of children, when they come to maturity, will show the same desires and beliefs as their parents, even though they have been brought up in the same general environment. If a social system has to choose its members continually and cannot adapt itself to the normal amount of variation in individuals, it is not fitted to become general. Thus far no communistic society with the possible exception of Amana, has demonstrated that it can do this. On the other hand, several have fallen before the broader aspirations of the rising generation. Zoar succumbed to the demands of the younger members after eighty-one years of existence. The rising generation at Oneida did not have the same respect for the perfectionist principles as the previous generation. The later quarrels of the Icarians were between the young progressive members and the old conservative members. The Shakers and Harmonists being celibates have continued to select their members, their numerical success depending upon the number of suitable persons who are willing to join them. The experience of Ephrata might not seem to bear out this principle, as celibacy has not always been a settled policy with them; but the principle of selection has surely been operative in the reduction of membership from three hundred to seventeen. If there is a free withdrawal of members not suited to the communistic life, the society may persist, although the total membership is likely to diminish rapidly.

From the experiences of communistic societies in the United States, we may conclude that such societies are likely to come to an untimely end from some minor preventable cause, such as sickness, lack of funds, or legal difficulties. Or, if societies are carefully enough planned to avoid these mishaps, they must face the more serious task of preserving harmony among the members. To do this some bond of union other than the mere resolve to coöperate seems essential. Up to the present a

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peculiar religious creed has been the most powerful force in accomplishing this end, though it cannot be said that no other will avail. A colony which has overcome dissension and become fairly prosperous will then have to face the fundamental question of its suitability for a progressive state and of its power to adapt itself to successive generations.

More than one society has decided that communism, or at least extensive coöperation, was desirable during the early pioneer life when the members were providing themselves with necessities; but that it was not the most desirable state for a progressive life after some wealth had been acquired. This is the message of Zoar and of the Wisconsin Phalanx, and it is the experience of some of the communistic societies of the Middle Ages, which could not continue communism after acquiring wealth. A band of people united for the attainment of a particular end will fall apart when that end is attained or is no longer sought. This fact seems to show that, while communism is advantageous for a certain stage in progress or for a certain purpose, it is not sufficiently elastic to give free play to individual desires, and in a more advanced social condition the ambitious members are hindered more than the others are helped.

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COMMUNISTIC COLONIES IN THE UNITED STATES

FOUNDED	CLASS[1]	NAME OF COLONY	LOCATION	MEMBERS[2]	CLOSED	CAUSES OF CLOSING
1732	R	Ephrata	Penn.	17	.....	
1786	R	Jerusalem	N. Y.	.....	1820	Death of leader.
1787	R	Shakers	9 states[3]	1000	.....	
1803	R	Harmonists	Penn.	5	.....	
1817	R	Separatists	Ohio	222	1898	Individualism.
1820	R	Snowhill	Penn.	30	?	?
1825	O	Yellow Springs Community	Ohio	500	1825	Lack of harmony.
1825	O	New Harmony	Ind.	1000	1827	Discordant membership.
1825	O	Nashoba Community	Tenn.	15	1828	Lack of superior beings.
1825	O	Coöperative Society	Penn.	?	?	?
1825	O	Forrestville Community	Ind.	60	1826	?
1826	O	Franklin Community	N. Y.	?	?	?
1826	O	Haverstraw Community	N. Y.	80	1826	Dishonesty, selfishness.
1826	O	Coxsackie Community	N. Y.	?	1827	Lack of funds, selfishness.
1826	O	Kendal Community	Ohio	200	1828	Sickness, debt.
1826	O	Blue Springs Community	Ind.	?	1827	?
1826	O	Maluria[4]	Ind.	120	1828	Religious controversy.
1826	O	Feiba Peveli[4]	Ind.	70	1827	Individualism.
1830	Ind	Equity	Ohio	?	1832	Unhealthy location.
1841	F	Brook Farm	Mass.	115	1847	Fire, lack of funds.
1841	R	Hopedale Community	Mass.	175	1858	Bad management, poor membership.
1841	Ind	Marlboro Association	Ohio	24	1845	Debt, business complications.
1842	Ind	Northampton Association	Mass.	130	1846	Debt, lack of harmony.
1843	R	Amana Community	N. Y., Ia.	1800	.....	
1843	F	Sylvania	Penn.	145	1844	Poor location.
1843	O	One-Mentian Community	Penn.	40	1844	Poor location.
1843	R	McKean Co. Association	Penn.	large	?	?

[1] R=Religious; O=Owenite; F=Fourierist; Ind=Independent; M=Modern socialistic or coöperative. [2] At date of closing, or at present time. [3] See above, p. 640. [4] Offshoots of New Harmony. Ten communities in all are said to have existed on the New Harmony estate, but details concerning the others are not known.

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COMMUNISTIC COLONIES IN THE UNITED STATES—*Continued*

FOUNDED	CLASS	NAME OF COLONY	LOCATION	MEMBERS	CLOSED	CAUSES OF CLOSING
1843	R	Peace Union Settlement	Penn.	?	1844	?
1843	F	Social Reform Unity	Penn.	20	1844	Lack of preparation and of capital.
1843	Ind	Fruitlands	Mass.	?	1843	Financial failure.
1843	F	Moorhouse Union.....	N. Y.	?	1844	Poor and discordant membership.
1843	F	Jefferson Co. Industrial Assoc'n.	N. Y.	400	1844	Disagreements, lack of capital.
1843	F	Bureau Co. Phalanx	Ill.	?	?	?
1843	F	La Grange Phalanx	Ind.	150	1846	Disagreements.
1843	F	North American Phalanx	N. J.	112	1856	Disagreements, fire, lack of interest.
1843	F	Washtenaw Phalanx	Mich.	?	?	?
1843	Ind	Skaneateles Community.....	N. Y.	150	1846	Lack of harmony.
1843	Ind	Prairie Home Community.....	Ohio	130	1844	Debt, poor organization.
1844	F	Leraysville Phalanx	Penn.	40	1844	Poor accommodations, discontent with management.
1844	O	Goose Pond Community[1].....	Penn.	60	1844	?
1844	F	Clarkson Phalanx.....	N. Y.	420	1844	Legal difficulties, lack of accommodations.
1844	F	Sodus Bay Phalanx.....	N. Y.	300	1846	Religious differences, sickness.
1844	F	Bloomfield Association.....	N. Y.	148	1858	Legal difficulties.
1844	F	Mixville Association.....	N. Y.	?	?	?
1844	F	Ontario Union.....	N. Y.	150	1845	?
1844	F	Ohio Phalanx	Ohio	120	1845	Disagreements, lack of funds.
1844	F	Trumbull Phalanx.....	Ohio	250	1848	Admission of unsuitable members, sickness.
1844	F	Clermont Phalanx.....	Ohio	120	1846	Lack of funds, jealousies.
1844	F	Alphadelphia Phalanx	Mich.	200	1846	Disagreements, bad management.
1844	F	Wisconsin Phalanx.....	Wis.	180	1850	Individualism.
1844	F	Iowa Pioneer Phalanx	N. Y., Ia.	?	?	?
1844	F	Garden Grove Community.....	Ia.	?	?	?
1844	R	Bethel.....	Mo.	1000	1880	Death of leader.
1845	F	Columbian Phalanx	Ohio	150	1846	?
1845	F	Integral Phalanx.....	Ohio, Ill.	120	1846	Discordant membership.

[1] Seceded from the One-Mentian Community.

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COMMUNISTIC COLONIES IN THE UNITED STATES—*Continued*

Founded	Class	Name of Colony	Location	Members	Closed	Causes of Closing
1845	F	Sangamon Phalanx	Ill.	?	1845	Merged with "Integral."
1846	F	Spring Farm Association	Wis.	30	1849	Lack of unity, failure of crops.
1846	R	Bishop Hill Community	Ill.	1000	1862	Death of leader, bad management, religious dissensions.
1847	Ind[1]	Utopia	Ohio	?	1851	Undesirable location.
1848	R	Oneida Community	N. Y.	268	1881	Outside opposition.
1848	Ind	Icaria	Tex.,Ill.,Ia.	1500	1887[2]	Disagreements.
1851	Ind[1]	Modern Times	N. Y.	100	?	Financial depression.
1851	R	Mountain Cove Community	Va.	?	1853	Quarrels about property.
1851	R	Wallingford Community[3]	Conn.	38	1881	(See Oneida.)
1853	F	Raritan Bay Union[4]	N. J.	30	?	?
1856	R	Aurora	Ore.	350	1881	Death of leader.
1858	Ind	Cheltenham	Mo.	150	1864	Disagreements.
1861	R	Celesta	Penn.	20	1864	Poor location, bad leadership, disagreements.
1861	R	Adonai Shomo	Mass.	30	1896	Loss of members, poor leadership.
1867	R	Brockton Community	N. Y.	70	1880	Strife of leaders.
1869	Ind	Reunion Community	Mo.	27	1870	Disagreements.
1871	Ind	Progressive Community	Kan.	10	?	?
1872	Ind	Friendship Community	Mo.	?	1877	Outside opposition.
1874	Ind	Social Freedom Community	Va.	15	?	?
1874	Ind	The Woman's Commonwealth	Tex., D. C.	24		
1875	R	Fountain Grove Community	Cal.	20	1900	Outside opposition.
1877	Ind	Esperanza	Kan.	?	?	?
1877	Ind	The Home	Mich.	12	?	?
1879	Ind	New Icarian Community	Ia.	34	1895	Lack of members.
1881	Ind	Principia	Mo.	?	?	?
1881	Ind	Cloverdale Community	Cal.	25	1884	United with Icaria.
1882	Ind	New Odessa Community	Ore.	30	?	?

[1] Anarchistic.
[2] The younger party who retained the original name dissolved in 1887, the new Icarians continued community life until 1895.
[3] Branch of Oneida.
[4] Seceded from North American Phalanx.

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COMMUNISTIC COLONIES IN THE UNITED STATES—*Concluded*

FOUNDED	CLASS	NAME OF COLONY	LOCATION	MEMBERS	CLOSED	CAUSES OF CLOSING
1883	Ind	Mutual Aid Community.....	Mo.	25	?	?
1884	R	Shalam	N. Mex.	?	1901	Bad location, poor membership.
1884	Ind	Icaria-Speranza.....	Cal.	52	1887	Disagreements.
1886	M	Columbia Coöperative Colony..	Ore.	50	?	Opposition, lack of funds.
1889	R	The Lord's Farm	N. J.	16		
1892	M	Union Mills Company.....	Ore.	?	?	Financial difficulties.
1894	R	Koreshans	Fla.	60		
1894	.....	Fairhope Ind. Association[1]....	Ala.	74		
1894	M	Colorado Coöperation Company.	Col.	400		
1894	M	Home Employment Company..	Mo.	21		
1894	M	Ruskin Commonwealth	Tenn., Ga.	300	1902	Disagreements.
1895	M	Willard Coöperation Company.	Tenn.	50	1897	Financial difficulties.
1896	M	Christian Commonwealth.....	Ga.	105	1900	Financial difficulties, poor membership.
1897	M	Freedom Colony	Kan.	13	1905	Lack of capital, poor membership.
1897	M	Freeland (Equality).....	Wash.	41		
1897	M	Niksur Coöperation Association.	Minn.	50	1900	Not class-conscious.
1898	.....	Mutual Home Association[2]....	Wash.	91		
1898	M	Coöperative Brotherhood	Wash.	40		
1898	M	American Settlers' Association .	Ga.	46	1899	Merged with Ruskin.
1899	M	Coöperative Industrial College.	Ga.	24		
1899	R	Lystra	Va.	25		
1899	R	Friedheim	Va.	52	1900	Human weakness, lack of intelligence.
1899	M	Christian Social Association ...	Wis.	48	1904	Withdrawal of members.
1899	R	Commonwealth of Israel	Texas	42		
1900	M	Freeland Association.....	Wash.	40		

[1] Single tax.

[2] Anarchistic.

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BERLIN'S TAX PROBLEM.

PROBLEMS of local finance ordinarily attract little attention outside the community immediately affected. Such matters may be important, but they are certain to be hard and dry. In spite of these inevitable difficulties, the recent agitation of tax questions in Berlin deserves wide and careful study. Interests of no small magnitude are involved, of course, but for outsiders the reforms under contemplation in the German metropolis are chiefly significant because the municipal problem they attack is a pressing one in large cities the world over. Briefly, it may be formulated as follows: Where are we to discover sources of revenue sufficient to meet the expanding needs of modern cities, particularly for the purpose of carrying on social reform policies—for more and better schools and hospitals, for the improvement of housing and sanitary conditions and for the enlightened administration of charity?

Few cities have met this issue so squarely as Berlin. Few cities, it might be added, are so fortunate in the possession of expert advisers on such questions. Professor Adolf Wagner, whose prominence as an economist and student of public finance is as widely recognized on this side of the Atlantic as in Europe, has made a notable contribution to the literature of municipal finance in the form of a pamphlet on the present issue in Berlin.[1] In this he was ably seconded by Dr. Preuss of the University of Berlin, whose exhaustive knowledge of Prussian administrative law has been put at the service of the city not only in public discussions but also on the floor of the municipal council of which he has been a member for eleven years. Mayor Kirschner of Berlin has followed the development of the

[1] Kommunale Steuerfragen, Referate von Professor Dr. Adolf Wagner und Privatdozent Dr. Preuss, erstattet der Ortsgruppe Berlin der Gesellschaft für Soziale Reform. Jean, Gustav Fischer, 1904. 63 pp. This pamphlet will be referred to in succeeding notes under the abbreviation: Ref.

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new tax measures most assiduously from their inception, and in this he has set the example for all the leaders of the various groups in the city council. Of the latter, probably the best-known outside of Germany is Paul Singer, who presented the views of the Social Democratic party on the pending questions trenchantly, but by no means always destructively.

The rapid growth of American cities has frequently been employed as an excuse for municipal shortcomings. Problems of vast magnitude have arisen so rapidly, it is said, that in the nature of the case solutions could be only approximate. Admitting frankly the true difficulties of our situation, a brief consideration of what Berlin has accomplished since 1870, under similar or even harder conditions, is like a new revelation on the subject. The population of the German capital at the end of the year 1870 was 774,498; at the end of 1903 it was 1,955,910. It is hardly necessary to add, so frequently has the subject been discussed elsewhere,[1] that both the absolute growth and the rate of growth indicated by these figures are but little if at all short of similar figures for many of our larger American cities. A most essential point of difference, however, is to be found in the fact that while our cities had practically a free field for municipal development less than a generation ago, Berlin at the same time had much to tear down before it could build anew. The older part of the city was a maze of tortuous alleys; cobblestones were the only paving where there was such a thing as paving; antiquated and rickety structures were common; and the subsoil of the city and the River Spree were being poisoned by a vicious system of open sewers; while interference in local affairs by royal authorities was carried to an extent little short of tyrannous, however benevolent may have been its purposes.

In all these particulars Berlin has progressed from eighteenth to twentieth century conditions within the period since the Franco-German war. From the financial point of view the great landmarks of this progress are: (1) the abolition of fees

[1] *Cf.* Albert Shaw, Municipal Government in Continental Europe, pp. 292 *et seq.*; J. A. Fairlie, Municipal Administration, pp. 118 *et seq.*

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for common school education in 1870 and the subsequent rapid development of the city school system on this basis; (2) the municipalization of the water-works in 1873, supplemented by the development of new sources of supply and general improvement of the system in 1893; (3) the beginning of the new sewage-disposal plant with the utilization of the sewage upon farms owned and largely cultivated by the city in 1873; (4) the transfer of the street-cleaning service from royal to municipal administration in 1875; (5) the opening of the municipal cattle-yards and slaughter-house in 1881; and (6) the completion of the central market hall in 1886, since followed by the erection of thirteen other local market buildings.[1]

Such a record of municipal activity one would expect to find writ pretty large in the figures showing Berlin's municipal debt. At the end of the fiscal year 1903 (March 31), it amounted to 318,245,734 marks, representing 165.70 marks per capita. Remembering that in addition to the municipal acquisitions mentioned in the preceding paragraph Berlin also owns her gas plant,[2] this figure will seem very moderate, especially when compared with certain large American cities which owe as much proportionally and have notoriously less to show for it. The burden upon the German capital is even lighter than the absolute figures would indicate, for no less than three-fourths of its debt is represented by investments that to a greater or less degree contribute financially to the city treasury. How far the city government is from insolvency may be gathered from the fact that the aggregate value of its public property is estimated at 655,422,695 marks, or 337,176,916 marks more than the total debt of the city. Thus each inhabitant of Berlin may be said to have an equity in municipal property to the value of 175.55 marks free from all encumbrance.

Before taking up the tax income proper of Berlin the earnings of these great property-holdings demand at least a brief

[1] For many valuable details regarding the events summarized above see Dr. Leo S. Rowe, Die Gemeindefinanzen von Berlin und Paris. Jena, Gustav Fischer, 1893, especially pp. 85–101.

[2] Berlin began the operation of municipal gas works in 1847, prior to the series of municipal undertakings noted on above.

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summary. Considering simply the excess of receipts over operating expenses, the city's quasi-economic income, *i. e.*, from all its plants, property and franchises, amounts to nearly one-half of the total net yield from its taxes. If interest and sinking-fund charges be considered, however, the relative importance of the city's quasi-economic sources of income is considerably lessened. Avoiding statistical details, it may be said at once that the municipal market halls, cattle market and slaughter house come out just about even when interest and sinking-fund charges are accounted for. Municipal institutions of this kind may not be operated with a view to profit according to Prussian law. It was feared that high fees might be charged for the facilities afforded by such plants, and that the effect would be similar to that of a tax on the consumption of articles of common necessity. In the final analysis, therefore, these branches of the city administration are neutral so far as the central treasury is concerned. The sewage-disposal plant is not a money-maker, although doubtless it is a money-saver as compared with any other means of performing the same service for Berlin.[1] For the fiscal year 1903–04, on the other hand, the gas and water works showed net profits of 4,873,025 and 2,356,222 marks respectively after the deduction of all operating expenses, interest and sinking-fund charges.[2] A total of nearly seven and a quarter million marks, therefore, was an absolutely net contribution to the city treasury from these two enterprises.

Comparing this result with the net yield from all taxes of nearly seventy millions of marks a year, it becomes apparent that the main financial reliance of Berlin is still placed on taxation, in spite of the extent to which the city has carried the policy

[1] For a brief explanation of the finances of the sewage farms see article by the writer in the POLITICAL SCIENCE QUARTERLY, vol. xx, pp. 310 *et seq.*

[2] One of the minor reforms approved by the council in the course of the present agitation will, if finally adopted, increase the apparent profits of the gas-works. At the present time the depreciation rates charged against the latter include, besides funds for repairs and renewals, an amount to be used for extensions. It is now proposed to discontinue the latter item, which will, of course, increase the figures showing future profits of the gas-works. On the other hand, however, the city will have to make larger issues of bonds when extensions have to be made.

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of municipal ownership. Without taking up the general questions involved in this policy, there can be no doubt that sentiment favorable to its extension is growing in the German capital. In the present search for new sources of income for the city nearly all the speakers and writers indicated street railways and electric lighting as fields that municipal enterprise must enter sooner or later. Professor Wagner expressed himself strongly to this effect, and criticised very severely existing provisions for compensation in the franchises of public service corporations. According to the agreements now in force between the city and the street railway companies, the latter are not obliged to increase the rate of their payments to the city until their dividends exceed 12 per cent. This arrangement Professor Wagner considered entirely too favorable to the companies, and he suggested instead the model of the Imperial Bank, in the profits of which the empire has an increasing share beginning at the low dividend rate of 3½ per cent.

Unfortunately for the city, however, neither the policy of municipalization nor an improved form of municipal control offers any means of increasing the income of the municipal treasury at present. However disadvantageous to the city they may be, the street railway agreements now in force run until 1919, while the Prussian authorities by a rather shady process recently continued the life of the largest street railway company in Berlin (*Grosse Strassenbahngesellschaft*) for thirty years longer.[1] As for the electric light contracts, Mayor Kirschner's opinion, that they are financially more advantageous to the city than direct operation would be at present, met with no opposition in the city council.[2]

One rather striking feature about Berlin's search for new sources of income in this direction is the fact that officially at least no one proposed an increase in the present gas or water rates. The stock argument against municipal ownership,

[1] Preuss, Ref., p. 39.

[2] Amtlicher stenographischer Bericht üb. d. ausserord. Sitzung d. Stadtverordneten-Vers., 28 Feb. 1905, p. 116. Important materials on the electric lighting agreements may be found in Schilling's *Journal für Gasbeleuchtung*, Jhrg. 26 (1883), p. 854; Jhrg. 30 (1887), p. 511; Jhrg. 41 (1898), pp. 360, 773.

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namely that "democratic finance" tends to reduce prices below the point of profits, would thus seem to have considerable validity even in a country the constitution of which is far from democratic. Professor Wagner criticized Berlin's policy on this score as follows:

> I believe * * * it would not be such a bad thing if one or more of the city's plants, even the lighting plant for that matter, were managed with a view to larger profits. Whether the [recent] reduction in the price of gas was really so necessary seems to me at least rather doubtful. It must be admitted frankly that in the receipts from the use of gas we had before a sort of indirect tax on consumption which after all was thoroughly justifiable.[1]

From whatever side Berlin's municipal industries were considered, therefore, no immediate increase in their contributions to the city's revenues could be anticipated. Consequently almost the whole interest of the present discussion centred in new taxes. Before taking up the various reform proposals made, a brief statement of the principles underlying the existing system may be helpful. The ideal of German taxation as a whole has been expressed as follows: "Zölle und indirekte Abgaben dem Reiche, Personalsteuern dem Staate, Realsteuern den Gemeinden," or in translation, "Customs and indirect duties for the empire, personal taxes for the state, real taxes for the communes," *i. e.*, municipalities and local governments generally. So far as cities are concerned this ideal is embodied in the famous municipal tax law of 1893,[2] which lies at the basis of the finances not only of Berlin but of all Prussian cities. In drafting this law and in his other epoch-making enactments of the same period, Finance Minister von Miquel took the position

[1] Ref. pp. 12, 13. The reduction in the price of gas referred to by Professor Wagner was made in 1901, when a uniform price of 13 pf. per cubic meter with a rebate of 5 per cent for prompt payment (92 cents per 1000 cu. ft., or with rebate, 87½ cents), was substituted for the former rates of 16 and 10 pf. per cubic meter for lighting and fuel gas respectively. As 58 per cent of the gas used prior to the change was paid for at the higher rate, the reduction was a very material one and resulted in cutting the net profits of the works in half.

[2] Kommunalabgabengesetz v. 14 Juli, 1893, Gesetzsamml. p. 152. This law will be referred to in later notes under the abbreviation, K. A. G.

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that from a fiscal point of view cities are to be regarded chiefly as economic bodies (*vorwiegend wirtschaftliche Verbände*), or, to express it in an over-worn American phrase, "municipal government is business, not politics." In drawing his conclusions from this premise, however, the great Prussian legislator deviated sharply from current American reasoning. For while we sometimes hear the argument that, since municipal government is business, not politics, therefore municipal government should be run by business men according to their methods and in their interest, von Miquel's conclusion was that, as business men—and particularly owners of land and buildings and managers of city enterprises—are chief beneficiaries of city government, they should therefore be the chief contributors to its support.

Accordingly the Prussian government relinquished the proceeds of its taxes on land, buildings and business in favor of the cities.[1] To cover the enormous losses which this would otherwise have occasioned in the budget of the state, the famous graduated income tax law of 1893 was passed, together with the supplementary tax (*Ergänzungssteuer*) designed to secure an additional contribution from income flowing from property. Other features of the tax legislation of 1893, so far as it affects Berlin, will be taken up in connection with special topics later. Meanwhile let it be noted that it is this "segregation of source as between local and state revenues,"[2] whereby the cities were put in exclusive enjoyment of taxes on land and business in their midst, which was fundamental in the municipal tax legislation of 1893 and which was considered by German and foreign critics alike to be its greatest merit.

The following table shows the yield of the various municipal taxes of Berlin arranged in the order of their magnitude for the fiscal years 1900–01, 1901–02, 1902–03, and 1903–04.

[1] Gesetz wegen Aufhebung direkter Staatssteuern v. 14 Juli, 1893, Gesetzsamml. p. 119.

[2] E. R. A. Seligman, Essays in Taxation, p. 339.

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NET YIELD, BERLIN MUNICIPAL TAXES, 1900–01—1903–04.[1]

TAXES.	1900–01.	1901–02.	1902–03.	1903–04.
	Marks	Marks	Marks	Marks
Municipal Income Tax	29,637,948	30,975,746	29,232,710	28,316,365
Municipal Land Tax	18,567,034	19,376,094	20,373,338	21,214,710
Business Tax	8,984,107	8,728,258	7,606,016	8,055,818
Sewage Tax	5,227,460	5,488,839	5,632,930	6,178,794
Tax on Real Estate Transfers	1,745,942	1,689,305	2,225,844	2,831,783
Malt Tax	757,834	747,182	698,771	726,872
Department Store Tax	.....	558,582	452,179	704,464
Dog Tax	576,333	593,581	607,318	624,208
Retail Liquor Dealers' Tax	287,349	313,841	303,613	278,461
Poor Fees	270,703	5,013	4,550	5,117
Pedlers' Tax	850	525	550	950
Total	66,055,560	68,476,966	67,137,819	68,937,542

At the head of the list and making up 41 per cent of the total tax collections for 1903-04 is the municipal income tax. Since, as has just been pointed out, the so-called *real* taxes on land, buildings and business were intended to be the main resource of the cities after 1893, the prominence of the above item in Berlin's balance sheet is very striking and significant. It reveals a defect in the municipal tax law which is in conflict with the fundamental purpose of the law itself. Avoiding a technical statement of the case, the situation, so far as it concerns the present discussion, is briefly as follows. Berlin and other cities are allowed to assess a tax against incomes, as a rule, only in the form of a percentage added to the state income tax. If municipal needs require that besides the *real* taxes a local income tax must thus be employed, the city is obliged to levy of the *real* taxes not less than the percentage levied of the local addition to the state income tax, and not more than half as much again.[2] This *Kontingentierung* of municipal taxes according to norms established by the state is not a hard-and-fast rule if one considers only the letter of the law. Nevertheless it has proved so as far as Berlin is concerned, for if the city should attempt to exceed the restrictions stated above, its action would be subject

[1] Statist. Jahrbuch d. Stadt Berlin, 1903, p. 464.

[2] K. A. G., § 54.

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to special review by the royal supervisory administrative authorities, leading from one instance to another with plentiful red tape along the route, with the possibility that in the end a disallowance might overturn the proposed increase and derange the whole financial system of the city. As chronic friction exists between the liberal municipal council of Berlin and the conservative officers of the royal administration, it is not hard to understand why the city does not put its head into this lion's mouth. The practical consequences of the present state of affairs are, first, that the city is not in a position to develop the *real* taxes which according to the intent of the municipal tax law of 1893 were to constitute its main support, and, second, that it is obliged to retain and depend upon its additions to the state income tax as far as it can do so without royal interference.

This amounts to saying that the much heralded municipal tax law of 1893 has failed to a large extent, and that the failure is due to defects inherent in the law itself. Not only in Berlin is this difficulty felt. A recent national convention of city officials (*Städtetag*) unanimously declared in favor of a change in the method of *Kontingentierung* in such a manner that municipal *real* taxes might be more fully developed. A similar resolution was adopted by the Berlin council, although not a few of its members declared that requests of this character were nothing more than pious hopes. Final action in the matter rests of course with the Prussian legislature. If the point should become a live issue, as sooner or later it must, a powerful opposition must be expected from city land-owners who fear that, once the limitations imposed by the state are raised, the tax screw will come down upon them with crushing pressure. Since one-half of the members of Prussian city councils must by law be composed of house-owners,[1] favorable action by the state will by no means be decisive, but will simply transfer the fight from the Landtag to city councils all over the country.

[1] *Cf.* article on "The Three-Class Election System in Prussian Cities," *Municipal Affairs*, vol. iii (1899), p. 408.

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Although there is little hope for the immediate reform of the *Kontingentierung* clause of the municipal tax law, a number of minor changes in the municipal income tax were suggested. Reference to the table on page 672 will show that the yield of the latter has fallen off in Berlin 2,659,381 marks, or over 8 per cent, since 1901–02. During the same years the yield of the state income tax for the whole of Prussia considerably increased. The explanation is simple. Rich citizens are transferring their residences from the city to the suburbs in constantly increasing numbers. In the main this does not mean tax-dodging, since most of the suburbs levy a local addition to the state income tax as high as or even higher than that of Berlin. There is, however, one notorious exception—Grunewald—where the rate is so low, as Mayor Kirschner pointed out, that wealthy residents save enough on their local income tax to purchase a new lot for a villa each year. It is apparent from this example that even if the Prussian state left its citizens quite free in the matter of assessing income taxes they would find this resource very unsatisfactory. With a little of the New Jersey spirit, one municipality might reduce or abolish its rates and thus attract the millionaires for leagues around, to the serious detriment of its neighbors' finances. Particularly where non-residents carry on business in a city and live in the suburbs, the existing arrangement seems unfair. In such cases the suburbs profit from incomes not earned within their limits. Accordingly the Berlin council unanimously incorporated in its reform plans a request that the Prussian legislature take under advisement a change in the law whereby a city may levy at least upon that part of the income of a non-resident which is derived from a business carried on within its limits. No fundamental solution of this problem will be possible, however, until the royal authorities finally give way to the demand for the creation of a "greater Berlin."

Two other less important changes in the municipal income tax law were suggested. One of these was designed to compel personal declarations from the recipients of smaller incomes (1500 to 3000 marks annually), of the same sort as may now be required as a matter of course from recipients of larger in-

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comes.[1] It is hoped that this will stop some of the leakage from the lower levels of the income tax. The other minor reform was with reference to the assessment of the incomes of employees of the state. According to § 41 of the municipal tax law, such persons now pay only one-half of the tax that the city collects from private individuals receiving the same salary. As these royal officials enjoy all the manifold advantages of city life equally with other citizens, it was felt by the Berlin council that they ought to be called upon to contribute equally to the support of the city government. Final action on these points, as also with regard to the other proposed reforms of the income tax law, lies with the Prussian Landtag.

Next to the income tax the municipal land tax is Berlin's largest revenue producer. In 1903–04 it yielded 21,214,710 marks, or 30.7 per cent of the city's total net income from taxes. Since the land tax is now developed as fully as the *Kontingentierung* principle permits, there is no immediate prospect of making it more productive. Nevertheless it received far more attention in the discussions of the council than all the other reforms put together. The main point at issue was the method of assessment. At present the land tax in Berlin is based upon rentals, the rate being 5.8 per cent of the actual rental minus 8 per cent allowed for costs. This system suffers from one great and universally conceded defect, namely, that under it unimproved land either escapes altogether or else pays only a microscopic tax. In consequence, real estate speculation is encouraged, for speculators are under no pressure to develop their property. To correct this it was proposed that a tax based upon the *gemeine Wert*, or ordinary market value of real property, be substituted for the present assessment of rentals. Although the purpose sought is in line with single-tax theories, the method is directly the opposite of that which single-taxers would employ, in that it seeks to reach the unearned increment not through rent but through the capitalized value of land. Nevertheless the plan proposed would, if

[1] §§ 24, 25, Einkommensteuergesetz vom 24 Juni, 1891, Gesetzsamml. p. 185; *cf.* also J. A. Hill, "The Prussian Income Tax," *Quarterly Journal of Economics*, vol. vi, p. 216.

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adopted, undoubtedly enable Berlin to reach part of the unearned increment in its worst form, namely, that upon unimproved property. To go further on the basis of the Prussian municipal land tax is impossible so long as the *Kontingentierung* restrictions remain. As will be seen later, another means, which avoids this difficulty, has been proposed in order to reach the unearned increment on city real estate in general.[1]

There are in Berlin at present only about six hundred unimproved lots as against nearly twenty-six thousand lots built upon. If the only result of the change from the assessment of rentals to the assessment of market values were to effect a readjustment of the present tax burden as between improved and unimproved property it is evident that the increase upon the latter would be too small to contribute much to the lightening of the taxes upon the former. The advocates of the market-value tax pointed out, however, that in addition to the wholly unimproved real estate in the city there were many lots only partly improved—villas with gardens, lots occupied by temporary structures, *etc.* Under the rental assessment such holdings are taxed but lightly. A market-value tax, on the other hand, would take into consideration future as well as present earning capacity of such properties, with the result that they would be obliged to pay more and thus contribute materially to the lessening of the burden upon fully-improved property, particularly tenement houses or small dwellings occupying a large part of the lots upon which they are built. Extended statistical tables were presented in support of the above contention, based upon results obtained in twenty-six out of the one hundred and twenty-four Prussian communities in which the assessment is made according to market value. Nearly all the suburbs of Berlin have the new system, and it was argued that the change would bring the metropolis into closer harmony with its neighbors and thus do something toward the realization of the dream of a "Greater Berlin." Finally, the market-value assessment has for some years been favored by the Prussian authorities. Under the municipal tax law of 1893, cities are allowed considerable latitude in the

[1] The proposed increment tax, *infra*, pp. 684–685.

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manner of assessing the land tax, but in 1899 the minister of the interior, von Rheinbaben, and the finance minister, von Miquel, came out strongly in favor of the market-value plan.[1] By complying with the wishes of the royal authorities in the matter, it was thought that the city would put itself in a better position for obtaining the desired changes with regard to the *Kontingentierung* clauses.

To these arguments in favor of a market-value assessment a number of objections were made. Real-estate owners—even those whose property was fully improved—feared that the new method might result in increased burdens. On the floor of the council, however, there was unanimous acquiescence in the proposition that unimproved lots must be made to pay more taxes. The only opposition to the capital-value assessment came from those who thought that it went too far, and who therefore proposed that it be applied only to unimproved lots, leaving the old system in force with regard to improved real estate.

The advocates of this double assessment plan brought a great number of objections against the uniform market-price valuation. On the administrative side they foresaw many technical difficulties. The rental assessment, which they hoped to retain for improved property, was easily made; it involved no complicated processes, demanded no expert talent, while the facts it sought to ascertain could be determined with almost absolute accuracy. Not so with regard to the market-value assessment. To begin with no one had or, for that matter, could have a perfectly definite and universally satisfactory method of ascertaining market or capital value. The concept itself is not clear. Ordinarily market or capital value is taken to mean the selling price of a piece of property under normal circumstances. Such a valuation is supposed to reflect not only present but also future earning capacity. Here are a number of extremely vague elements. Of course various rules of thumb may be employed to reach a practical solution,[2] but an attempt to as-

[1] In the Runderlass von 2 Okt., 1899, F. M., ii, 9,492; M. d. I., I. B. 5,514.

[2] Several methods of ascertaining market value were discussed in the council. *Cf.* Amtlicher stenographischer Bericht ü. d. ausserord. Sitzung d. Stadtverordneten-Versammlung a. 28 Feb. 1905, p. 121; *ibid.* 13 Apr. 1905, 221.

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sess all of Berlin's real estate on this basis would have two certain results: first, it would enormously increase the cost of assessment and administration while at the same time, under the *Kontingentierung* clause, no increase in the gross yield of the tax could be obtained; second, it would cause great dissatisfaction among property holders and lead to the bringing of many vexatious suits against the city to secure a reduction of the assessment.

Before proceeding with other objections urged against the capital-value system, it will be well to state the rejoinder made by its advocates to the foregoing. What if it should cost slightly more, they asked, to collect the same amount of tax? Granted that we secure greater justice in the distribution of the burden upon real estate, the greater expense of collection is also justified. But the cost and difficulty of the new method have been exaggerated. We shall be able to find numbers of citizens willing to give their time gratuitously to the service of the city in making assessments as they do now in the conduct of charities, schools and elections. Moreover their work will be made much lighter by the fact that the state already assesses real estate, with the exception of that held by corporations, for the purposes of the supplementary tax (*Ergänzungssteuer*). For a very large part of the properties to be valued there thus exists a guide in the estimates of the state officials which should prove very useful to the new tax bureau and its helpers, salaried and otherwise. As for suits brought by property holders owing to dissatisfaction with their assessments, the experience of Breslau, Cologne, Charlottenburg and other cities where the change has already been made, shows that such suits were not very numerous even under the first shock of the new system, and decreased in number to an almost vanishing minimum shortly thereafter. One very interesting consequence of the market-value plan from an American point of view is the fact brought out in a statement from Breslau that particular care is exercised there to prevent over-assessment. Nothing in the Berlin debates indicated an intention to fix the capital value at any percentage below the actual worth, as is so often done in the administration of our own general property tax. That something similar

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occasionally happens in Prussian cities which have gone over to the new system would seem a fair inference from Breslau's statement.[1] Although it merely proves the rule, one exception to the foregoing may be found in a model ordinance drawn up by the Prussian government for the advice of such cities as desired to change from rental to capital-value assessments. In this document it was provided that three-fourths (or only one-half) of the value might be assessed in the case of buildings erected by semi-philanthropic corporations or associations for the improvement of workingmen's dwellings, provided such corporations or associations limited their dividends to four per cent and in the event of their dissolution returned only the face value of the stock to their shareholders, devoting the remainder of their property to the welfare of the community. A similar exception was also suggested in favor of small dwellings owned and occupied by workingmen.[2]

To return to the arguments of the opponents of the capital-value plan, one point was made which perhaps has a certain general validity in connection with schemes of taxation designed to hurry up the improvement of vacant city lots. On the periphery of Berlin some land is still owned and cultivated by gardeners and small farmers. Under the present tax on rentals the small net returns from this kind of cultivation are made the basis of their assessment. A market-value tax, on the other hand, would fall upon them with crushing force, and as they are not in possession of sufficient capital to enable them to build upon their holdings they would be forced to sell, in all probability to large land and improvement companies. This argument, however, seemed to make little impression upon the Berlin council. Probably the number of such "cabbage farmers" is extremely small in comparison with the number of land speculators who would be affected chiefly by the change.

In addition to the foregoing, a number of minor objections

[1] Amtlicher stenographischer Bericht f. d. Sitzung d. Stadtverordneten-Versammlung a. 13 Apr. 1905, p. 220.

[2] The text of this proposed ordinance was reprinted in the Vorlage f. d. Stadtverordneten-Versammlung zu Berlin, no. 13, (168), p. 195, 16 Jan. 1905.

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were made to the market-value assessment plan. Under the present arrangement, owners of property who have not been able to rent it all the time have their assessment reduced in proportion to the loss incurred. It is difficult to see how an allowance of this kind can be made under the new scheme, although some such promise was held out. As the total yield of the tax is fixed in advance, however, the result of the present arrangement is that the burden of the less successful landlords is lightened at the cost of the more successful ones. Only about one per cent of the rentable property of Berlin is vacant at any one time, so that it would seem the better rule to disregard any except chronic failure to rent in the assessment of the land-tax. The purveying of houses is, after all, a business like other businesses, losses incurred in which should be borne by the enterpriser concerned. Also debts are deducted under the present system, while this would not be done under the capital-value assessment. Along the same line it might be noted that houses occupied by owners are said to be less adequately assessed now than property of equal value occupied by tenants, the reason being, of course, that in the former case the rent is yielded in the form of subjective utilities, while in the latter a definite and easily ascertainable contract rent is paid. Opinions will differ as to the advisability of a condition of affairs which favors property occupied by owners. The friends of the new system evidently believe that it will lead to a more correct assessment of such property, but experience alone can settle this matter. Of considerable interest is the point brought out in the discussions of the council that the records of actual rentals now kept in the assessor's office are always consulted to determine the credit of property owners. Largely upon the basis of the information thus secured mortgages are negotiated. Some of the opponents of the new plan feared that its adoption would throw the real estate loan market into confusion. A record of rentals, however, will doubtless be kept in the future as in the past for two reasons: first, for the purposes of the sewerage tax which will continue to be assessed on this basis, and, second, in order that the information thus secured may be used in determining the capital value to be assessed under the new plan.

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It has been noted that the opposition to the assessment of real estate according to market value did not reject this principle *in toto*, but suggested instead a double system, whereby unimproved real estate should be taxed on this basis and improved real estate should be dealt with on the present basis of rentals. Such a double system is in actual employment in Frankfurt on the Main and in Cassel. In cities which, unlike Berlin, still have considerable unimproved areas such a compromise might commend itself. As one of the chief advantages expected from the market-value assessment is the pressure it will bring to bear on partly (as well as on wholly) unimproved property, the double system would hardly meet the needs of the Berlin situation. Moreover, there is some doubt as to the latter system's legality. According to § 27, clause 1, of the municipal tax law of 1893, "the taxes on landed property must be apportioned according to the same norms and principles." The weight of Prussian juristic authority inclines to the opinion that this is meant to bar out personal discrimination, and does not, therefore, conflict with such a double system as was proposed for Berlin. Nevertheless, as the point has never been passed upon by the highest administrative court, the danger of a decision which would overthrow the double system and possibly involve the city's finances in almost hopeless confusion, still remains a factor to be reckoned with. In the council's final action on the question the double system was defeated by a vote of 54 to 44, and afterwards a resolution in favor of the capital-value assessment for all real estate was carried by 71 to 26. A question was tacked on to the successful resolution asking the Prussian government whether a higher rate might not be assessed against unimproved than against improved real estate.

With the favor of the royal authorities already assured, this decision by the Berlin council in favor of the market-value plan of assessment will probably be put into effect in the near future. Owing to the *Kontingentierung* clause, it will not, of course, result in any direct financial benefit to the city treasury. The change is however, decidedly significant of the strong determination now prevailing in the German capital to put real estate, and particularly the unearned increment, under heavier tax

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contribution. Another evidence of this is afforded by the recent increase in the municipal tax on real estate transfers (*Umsatzsteuer*). Formerly this amounted to ½ and 1 per cent of the sale value of improved and unimproved properties respectively, but since March 7, 1904, these rates have been doubled.[1] The idea underlying taxation of this character is present in another form in the basic law on the subject. According to § 27, clause 2 of the municipal tax law of 1893, a provision was made for a building lot tax (*Bauplatzsteuer*) which was hailed with delight at the time as promising a means of getting at the unearned increment. It read as follows: "Real estate holdings which have been increased in value by the laying out of street lines (*Baufluchtlinien*) may, according to the measure of this higher value, be assessed at a higher rate than other real estate holdings." Despite the extremely vague wording of the foregoing, an attempt was made to work out a tax ordinance along this line. Great difficulty was experienced particularly because of the limitation of the tax measure to that part of the increase of land values caused by the laying out of new street lines. In the words of Dr. Preuss:

> By the fixing of new street lines in itself considered no demonstrable increase of value emerges; such action [*i. e.* the laying-out of new street lines] is but one of the symptoms of the whole development, of that general extension of municipal agglomeration, which makes the plot of land under consideration more valuable.[2]

When the building lot tax finally came before the superior administrative court, a decision was handed down which pointed out the original defect in the municipal tax law and excluded from the operations of the ordinance all so-called "historical streets," *i. e.* those which were constructed before the street line law (*Fluchtliniengesetz*) of 1875. As a result the city rescinded its action, paid back its collections, and the incident

[1] In 1903-04, this tax yielded 2,831,783 marks, or 4.1 per cent of the total tax yield of that year. In 1904-05, as a result of the doubled rate it yielded 5, 884,708 marks. Berichte aus Anlass d. Besuches d. englischen Kommission z. Zweck d. Studiums städtischer Einrichtungen im Auslande (Berlin, Hermann, 1905) pp. 18-21.

[2] Ref., p. 47.

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has since been invested with no small degree of melancholy fame in the city's financial history.

In spite of this failure, the idea has persisted and grown in strength with the passing years. It now has behind it considerable popularity and the overwhelming weight of expert opinion. Thus Professor Wagner, in his discussion of the present real estate transfer tax, commits himself unreservedly to the principle involved. Assuming the case of a piece of city real estate which in the course of a few years has increased in value 40,000 marks above all costs for improvements made in that time, he writes:

> This 40,000 marks now, has it been earned by the activity of the owner? No! Has he paid for it? No! It is the tenants who now and in the future must make it good. That, however, is a relationship under which the tenants are exploited far more severely than was the case with the burden upon land in feudal times; it is a situation under our present legal system that from the social point of view must be regarded as dangerous. The question is: how may this 40,000 marks be drawn upon for purposes of taxation? In this case, I think, one can not go far enough with the tax rate. Even here, however, I would leave something to the winner, to the one who through circumstances is enriched —let us say 10 per cent. The city would then get 90 per cent. Now since such a proposition is not yet practically possible, let us say 50 per cent, or even, so far as I am concerned, 30 per cent.[1]

In concluding his speech before the Berlin branch of the Society for Social Reform, Professor Wagner most impressively declared his confident belief that the principle above enunciated would eventually be accepted. That such opinions are not confined to the closet of the student is apparent from the following words used by Mayor Kirschner in open council:

> Gentlemen, it is indeed quite clear that certain values emerge and increase, even in the case of improved real estate, which are not hit by the rental tax. These values fall into the pockets of the owners with-

[1] Ref., p. 30. See also Professor Wagner's Finanzielle Mitbeteiligung der Gemeinden in which a plan for such taxation is explained in some detail. In Kiautschou according to a recent tax decree a rate of 33⅓ per cent is actually being levied against the unearned increment of land.

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out their having done anything to deserve it, and in consequence would seem peculiarly adapted to the purposes of taxation.[1]

These ideas are now actually taking shape in the form of a *Wertzuwachssteuer*, or increment tax, which the tax committee of the administrative council (*Magistrat*) of Berlin is preparing to lay before the elective council (*Stadtverordnetenversammlung*). If accepted, the experiment should prove one of the most interesting in modern financial practice, and for that reason, in spite of its present purely tentative form, the proposed ordinance is here given in detail, omitting sections 1 and 2 which merely restate the provisions of the existing real estate transfer tax:

§ 3. Besides the tax mentioned in section 1 [*Umsatzsteuer*], an increment tax [*Wertzuwachssteuer*] shall be levied whenever the present purchase price or the market value [*gemeine Wert*] of the real estate exceeds by more than 10 per cent the price paid at the former change of hands, inclusive of the additions provided for in section 5.

In calculating these additions it does not matter whether the former change of hands took place before or after this ordinance had been put into force.

§ 4. The increment tax is chargeable at the rate of 1 per cent of the increment, if the latter be more than 10 per cent and not more than 15 per cent; 2 per cent of the increment, if the latter be more than 15 per cent and not more than 20 per cent; 3 per cent of the increment, if the latter be more than 20 per cent and not more than 25 per cent; 4 per cent of the increment, if the latter be more than 25 per cent and not more than 30 per cent; 5 per cent of the increment, if the latter be more than 30 per cent and not more than 35 per cent of the former purchase price, or the market value; and so forth, *i. e.* 1 per cent more on every additional 5 per cent of increment.

§ 5. In calculating the increment referred to in section 4, the former purchase price is to form the starting point. To that price must be added:

1. All the expenses for permanent improvements of the estate, inclusive of expenditures on street construction and for connections with the common sewer. Expenses for new buildings and alterations of

[1] Amtlicher stenographischer Bericht f. d. Sitzung d. Stadtverordneten-Versammlung am 13 April, 1905, no. 16, p. 226.

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buildings are not taken into account so far as they have been covered by moneys received from fire, water and other insurances.

2. All the expenses for lots not built upon, and not utilized by the seller himself for his own agricultural or industrial pursuits; also losses of interest, expenditures for repairs and costs of keeping the estate in good condition—all corresponding receipts, however, to be deducted.

Cessions of land for streets and squares are taken into account in such a way that the total purchase price shall be calculated, not according to the original area, but according to the area remaining after the cession has been made.

No further additions to the former purchase price shall be admissible. The difference between the former purchase price, increased by the above-mentioned admissible additions, and the present purchase price is to be considered as increment.[1]

It should be added that while the real estate transfer tax is borne by the purchaser, the new increment tax will be assessed against the seller. There is also a bare possibility that it will be made to apply to the transfer of real property by inheritance, which is not the case with the real estate transfer tax. As to what changes the council will make in the proposed ordinance, and the later attitude of the royal authorities on the question, it is of course too early to venture any predictions.

Next to the municipal land tax the business tax (*Gewerbesteuer*) yields the largest amount to the Berlin treasury—in 1903–04, 8,055,818 marks or 11.7 per cent of the total tax yield of that year. It received very little attention in the current discussions, chiefly because it is included under the *Kontingentierung* clause, and must therefore be assessed at the same rate as the land tax. This is felt to be unjust, as, unlike most city land, business undertakings in general do not constantly increase in value. Hence they should be assessed at lower rates than real estate. There are other defects too numerous to mention in the business tax, but as the present quest of the city was for new sources of revenue, reforms in

[1] With some changes where the original did not seem to be exactly rendered, the above translation is taken from the very interesting Report on the Municipal Administration and Industries of the City of Berlin, p. 55, prepared to aid the English commission which visited Berlin in June of the present year to study its government. Berlin, H. S. Hermann, 1905. The report is published both in English and German.

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these particulars, with the losses to the treasury they would possibly entail, were left for another time.

In connection with the business tax should be mentioned the special department-store tax, (*Warenhaussteuer*)[1] passed in 1900, principally with the intention of affording a measure of protection to the small retail trade. It yielded, in 1903-04, 704,464 marks, or about 1 per cent of the total net tax receipts of Berlin for that year. There is no immediate intention of drawing more heavily upon this source, primarily because its yield must be placed to the account of the lower classes of the business tax, but also because it is felt that the exception made by the law against one form only of large-scale enterprise is hardly justifiable. A more correct method of procedure would be an increase of the general business-tax rates against large industries and a lightening of the rates on smaller enterprises, with possibly a higher limit of exemptions. Whatever may be the protective effect of the department-store tax in favor of the small dealer, it does not, as at present constituted, help him against large stores dealing in one line of goods only.

The list of Berlin's principal sources of income may be completed by a brief reference to the sewerage fees (*Kanalisationsgebühr*). In 1903-04, these yielded 6,178,794 marks or 8.9 per cent of the total net tax-yield of that year. From the point of view of the law of 1893, the sewerage charges are, as the name *Gebühr* indicates, nothing more than fees, similar to those charged for the use of market halls, slaughter houses and other city enterprises. Looking at them in this way it is easy to figure out a profit on the whole sewage-disposal plant including the farms. Properly speaking, however, the sewerage fees are taxes, and direct taxes at that. Like the municipal land tax they are assessed against the rental value of real property, the rate being 1½ per cent. As the municipal tax law of 1893 prohibits the increase of charges of this character beyond a point sufficient to pay operating expenses, interest and sinking-fund charges, the sewerage fees hardly came under consideration at all in the course of the present discussion. Their only

[1] Gesetz v. 18 Juli, 1900, p. 294. *Cf.* also J. A. Hill, "Taxes on Department Stores," *Quarterly Journal of Economics*, p. 299, vol. xv (1901).

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interest in connection with it lay in the fact that they will continue to be assessed against rentals, whereas if the proposed land-tax reform is accepted the land-tax will be assessed against market value, thus making necessary two different assessments for the same property.

The next point on the program of the Berlin reformers was the proposition that indirect taxation should be developed to a greater extent for municipal purposes. In a sense this represents a decided reaction, for prior to the establishment of the empire Prussian cities were notorious for the number and vexatiousness of their indirect taxes. One of the purposes of the municipal tax law of 1893 in directing cities to develop land and business taxes was to make it less necessary for them to rely further upon indirect taxes. Another consideration that contributed to this determination was the fact that the empire almost entirely, and the state to a very considerable extent, were dependent upon indirect taxes. If cities should be permitted to add to these burdens on their own account it was feared that consumption would fall off, thus reducing the yield to empire and state. Consequently the municipal tax law of 1893 drew pretty narrow limits about indirect taxation. It forbade expressly the enactment of new taxes where these did not already exist, and the increase of existing taxes upon meats, grains, flour, pastry, potatoes and fuel.[1] An exception was made to the foregoing as regards game and poultry, but owing to the comparatively small consumption of these commodities the liberty to impose taxes upon them is practically of no importance. The chief purpose of these restrictions was, of course, to prevent an increase of the poor man's cost of living beyond what the necessities of empire and state required. On the whole praiseworthy, they nevertheless raise the question whether, with exemption from the income tax and no direct contact with land, business and other taxes, the poor man is not escaping contribution to the municipal treasury almost altogether.

So much for the restrictions on indirect municipal taxation. On the other hand the municipal tax law of 1893 expressly permits cities to impose taxes on public amusements (musical,

[1] § 13.

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declamatory, theatrical) and on dogs. The latter is regarded as indirect, although it would be harder to find a better reason for so classifying it than the old juristic joke, namely that the dog itself does not pay the tax.

With the principle imbedded in the basic law that cities should resort to indirect taxes very sparingly, the nominal part they play in Berlin's budget should not be surprising. Without counting the tax on real estate transfers—although logically this tax is perhaps to be classified as indirect in character—the existing sources of this kind are three in number, *viz.*, the brewing malt tax (*Braumalzsteuer*, levied as an addition to the imperial tax on the same object), which yielded 726,872 marks in 1903–04; the dog tax, 624,208 marks; and the retail liquor-dealers' tax (*Betriebssteuer*), 278,461 marks—a total of 1,629,541 marks, or only 2.3 per cent of the total tax-yield of that year.

Berlin, then, is very nearly perfect if a city's tax system is to be considered as approaching the ideal the nearer its indirect taxes come to being reduced to a minimum. In spite of the law of 1893 and the unpopularity of indirect taxes in general, there is, however, a marked tendency to venture more into this field. This is due partly to necessity, partly to the conviction that the pendulum has swung too far in the other direction. Among others Professor Wagner is a moderate adherent of this opinion. In his recent pamphlet he pointed out how much less Berlin receives from indirect taxes than other continental cities. Even in Prussia other cities, especially those which have retained indirect taxes in existence at the passage of the municipal tax law, enjoy more abundant revenues from indirect taxes than Berlin. Thus Breslau, which still has a tax on killing cattle (*Schlachtsteuer*), raises from consumption taxes 5½ out of its 28½ marks a year per capita. Outside of Prussia the comparative importance of indirect taxation is greater, particularly in those parts of the empire where French influence is felt. Munich collects from indirect taxes 5 out of 26 marks per capita; Stuttgart, 6½ out of 32 marks; Nürnberg, 4¾ out of 19 marks. In the Reichsland octrois still exist, and their effect may be noted in the fact that Strasburg collects 22 out of 26 marks per

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capita from consumption taxes. Similarly in the municipalities of Italy, Austria and France. Paris, for instance, in spite of recent reductions in octroi duties still obtains 60 per cent of its revenues from indirect sources.[1]

The persistence of this kind of municipal taxation naturally raises the question as to whether its effects are so bad as they have been described. This can perhaps best be taken up in discussing the various indirect tax schemes recently brought before the Berlin council. Meanwhile it should be noted that opinions hitherto pretty generally held with regard to the incidence of such taxes are undergoing considerable revision. They are not by any means always shifted entirely upon the consumer in the shape of higher prices or poorer qualities. Professor Schanz, of Würzburg, recently investigated this point with reference to the Bavarian beer tax, which was increased 50 per cent a few years ago. He found that the results were most various: in one case the price was somewhat increased; in another, quality fell off; in a third the effect was not noticeable at all or was distributed among the various middlemen—brewers, wholesalers, tavern-keepers, *etc.* These theoretical considerations regarding incidence played no small part in the Berlin debate, not a few of the speakers basing their arguments upon a hoped-for shifting of the burden of indirect taxes upon others than consumers, or, at least, upon others than citizens of Berlin.

In spite of the supposedly bibulous tendencies of Berliners, there was pretty strong support in some quarters for the proposition that liquors and the retail liquor business afforded the most eligible objects for increasing the indirect tax revenues of the city. The two taxes of this sort now in existence (*Braumalzsteuer*, *Betriebssteuer*) yielded together, in 1903–04, only 1,005,333 marks or about half a mark per capita—a laughably small figure. One surprising fact with regard to the brewing malt tax is that it falls entirely upon the Berlin brewers, while beer from other places is subjected to no corresponding burden. To remedy this it was at first supposed that a tax per liter on all beer consumed in the city would be

[1] Ref. pp. 16–18.

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sufficient. By law, however, such a tax could not exceed 65 pfennige per hektoliter, and its yield would, therefore, probably be less than that of the present malt tax. As the latter would have to be abandoned in case the 65 pfennige tax were imposed, the disadvantage of the Berlin brewers could be remedied only at the cost of the city treasury. The project was therefore abandoned.

The retail liquor-dealers' tax (*Betriebssteuer*) [1] is now assessed upon four classes of dealers divided according to the profit of the business. In 1903–04 there were altogether 16,213 such dealers in Berlin, each paying, according to class, 100, 50, 25 or 15 marks. These rates are regarded as quite inadequate, particularly in the case of the so-called "beer palaces," and other large and fashionable drinking places. Accordingly the elective council has requested the administrative council to draw up a new retail liquor-dealers' tax ordinance, the rates in which shall be based upon a combination of the quantity and quality of the liquors dealt in (wines, foreign and domestic beers, brandy), the rental value of the places where these are sold and other similar factors. Technically this is a commission by the side of which the labors of Hercules were mere child's play. A preliminary draft of the new ordinance, as yet presented only in committee, proposes such readjustment of the rates that the yield of the tax shall be increased from the present figure of 278,461 to 1,392,526 marks. At present the first class or large retail liquor-dealers pay slightly more than one-tenth of the whole tax. Under the proposed tariff they would have to pay about a third. It is hoped that the increased burden will not be borne entirely by the consumer but will be shifted in part upon the owners of property rented to tavern and restaurant keepers. The real tug of war will come when the proposed ordinance reaches the council, for "mine host" is popular in Berlin, he possesses an influential organization of his own, and he counts for more than a little in all the local political parties.

From its dog tax Berlin received, in 1903–04, 624,208 marks.

[1] Betriebssteuer v. 24 Juni, 1891, p. 221.

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Dogs used as draft animals or belonging to crippled or blind persons are exempt; on all others the rate is 20 marks per annum. A resolution to advance this to 40 marks was opposed in committee on the ground that it would probably yield no more than the present tax and be a cause of great vexation both to those who paid and to those who felt compelled to dispose of their dogs. To this it was replied that the city had increased the rate from 9 to 20 marks in 1892, and that while the immediate result was a considerable decrease in the number of dogs kept in the city, they began to increase shortly thereafter, were now more numerous than ever and were increasing at the rate of a thousand a year. Stettin already taxed them 50 marks a year, and many cities charged more than 20 marks. Dogs in cities were often a menace and always a nuisance. While admitting the force of this statement, the opponents of an increased tax maintained that the proper action under the circumstances would be to banish all dogs from the city or order them to be kept in close confinement. The proposition to make the tax 40 marks being defeated, an increase to only 30 marks was next voted down, although it was calculated that at the latter figure an additional 300,000 marks annually could be secured. Thus was vindicated the principle "love me, love my dog," for it was pretty generally understood that no tax increase of equal amount would cause more bitter feeling than precisely this one.

The battle royal of indirect taxation was fought out, however, on the proposition to introduce a theatre-ticket tax. There was no doubt of the city's legal right to do this under the amusement clause of the municipal tax law of 1893. Indeed, there seems to have been some intention at first of a general tax on amusements, balls, concerts, lectures, *etc.*, as well as on theatrical representations. Such general amusement taxes exist in many cities, some of which, as, for instance, Frankfurt on the Main, seem satisfied with them. In Halle and other places, however, they were found very vexatious, many pleasure clubs transferring their meeting to inns just outside the city, to the despair of local landlords and the final abolition of the tax. As country parties and merrymakings are popular with Berliners even

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without a tax, the proposition to bring amusements in general under contribution was dealt with very gingerly.

Not so the plan to tax theatre tickets. Other cities with no mean reputations as art centers have developed this source of revenue—among them Paris, which collects about 10 per cent of the value of the tickets sold, Frankfurt on the Main, which takes 8 per cent and realizes 115,000 marks a year, and Vienna. The price of seats in Berlin is very low in comparison with other places of its size, and a small increase, particularly for the higher-priced tickets, would be very little felt. By the withdrawal of a special rental tax (*Mietssteuer*), in 1895, theatres had been given what was practically a present, amounting in some cases to 100,000 marks a year. They could hardly regard it as a hardship, therefore, to meet the much lighter burden which it was now proposed to levy upon their ticket sales. Finally, it was urged that a tax of this sort would fall in part at least upon visitors who enjoy all the advantages of the metropolis without contributing anything to the cost of its government. In 1903, as near as could be ascertained, 882,202 strangers visited Berlin.

Great uncertainty as to rates and probable yield marked this part of the discussion. The most definite proposition made, although it must be regarded as purely tentative, was based upon the rates now employed in Elberfeld. It was as follows, the figures showing the number of seats and yield being assumed to cover Berlin conditions.

Cost of Seat (marks)	Number of Seats	Rate (marks)	Yield on the assumption that half the places would be sold 200 days in the year (marks)
7–10.00	345	1.00	34,500
5– 6.50	3,597	0.75	269,700
4– 4.50	3,045	0.50	152,200
3– 3.50	4,649	0.30	139,440
2– 2.50	4,228	0.25	105,700
1– 1.50	8,890	0.10	88,900
Total	24,574		790,440

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The above rates vary from 6⅔ per cent upon the cheaper to to 15 per cent upon the more costly tickets, although the rate of progression is not quite uniform. With regard to the total yield, the assumption of a sale of half the seats only 200 days in the year was thought to be much too moderate, especially considering matinees and Sunday performances. The estimate of the total number of seats in the city was also thought be too low. Optimists with regard to the tax thought it might produce between two and three million marks annually; skeptics granted only half as much, and pessimists on down to less than the figure quoted in the above table. Whatever it may turn out to be, two allowances, one certain, the other highly probable, must be made. At the present time the theatres of Berlin pay the city from 150,000 to 200,000 marks every year for special police and fire protection. If the proposed tax be adopted these special contributions, according to section 6 of the municipal tax law of 1893, must cease. The other deduction will probably have to be made for the royal opera house and the royal theatre with 1116 and 1385 seats respectively. Any city ordinance imposing a tax on theatre tickets must receive approval of the royal supervisory authorities before going into effect. That they will permit Berlin to tax an enterprise administered by the state is hardly probable. Indeed they might take the directly opposite view, recently advanced by Professor Wagner, namely, that municipalities, instead of imposing taxes on state institutions of such recognized high merit, should be compelled to contribute roundly to their support. Consequently Berlin's officials have to face the dilemma of exempting the royal playhouses and losing two of the richest sources of the new tax, or of attempting to reach them at the risk of having their tax ordinances disallowed in whole or in part. Summing up both the deductions mentioned above, a total yield from the theatre-ticket tax of a clear million marks a year is perhaps as much as can reasonably be expected.

A very lively opposition to the proposed tax was made in the press and on the floor of the council. That visitors would pay any large part of it was doubted. Most of those who came to Berlin came for business rather than pleasure. Far

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worse than any actual burden which might be imposed upon visitors was the bad name it would give the city to have it noised about that schemes for taxing the stranger within her gates were being contemplated. Berlin was none too popular anyway, and other cities were competing actively for her trade. As regards the citizens of Berlin, who would assuredly pay the greater part of the tax, how could any action be justified that would make their intellectual food more costly? One orator even went so far as to compare a tax on theatre tickets to a tax on newspapers. The poor man in particular, who is able to take his family but rarely to the theatre, would find the increase in the price of tickets prohibitive.

The attitude of Paul Singer, who spoke for the Social-Democrats, was rather interesting. It is a part of the program of his party to denounce all indirect taxation as the insidious scheme of tyranny to extract money from the pockets of the people without their knowledge. Consequently he found himself in opposition not only to the theatre-ticket tax but also to the increase of the liquor and dog taxes. All of these, and particularly the first, were advocated as taxes on luxury, but this did not prevent the votes of the Social Democrats being thrown against them. In spite of this rather equivocal situation, some of Singer's arguments were of considerable force. The introduction of indirect taxes, he maintained, was the first step on the downward path, and the more the city developed these sources the weaker would be its motives and the worse its position for fighting the fundamental evil of Prussian municipal finance—the *Kontingentierung* clauses. All efforts should be concentrated to this single end in order that direct taxes—and particularly the income tax, in the opinion of the Social-Democrats—might be more adequately developed.

Nevertheless the theatre-ticket tax principle was upheld by a vote of 58 to 38 in the council, and the *Magistrat* was asked to work out a definite ordinance on the subject. As for the danger of too great a development of indirect taxes, existing imperial and Prussian laws, taken in connection with popular feeling on the subject, would seem to impose sufficient safeguards. Considering the need for more revenue the council must be con-

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ceded to have been very cautious in its action. A number of suggestions for new indirect taxes which received the support of no less an authority than Professor Wagner were not even brought up officially. To this category belong the propositions for a general increase in the fees charged for the use of municipal libraries, museums, galleries and other collections; and a special tax to be imposed on the owners of horses, wagons, automobiles, *etc.*, based on their specific advantage in the use of the streets.

Reviewing the action accomplished, it will be found that the purely financial results of the Berlin tax discussion are not large. From municipal ownership or control, and from its so-called *real* taxes of land and business, the city can expect only the increase due to slow growth; from the income tax, probably not even that increase. It is too early to speak of the increment tax on real estate; the increase of the real estate transfer tax may yield an additional two million marks; the retail liquor-dealers may be mulcted to the extent of another million, and the theatre-ticket tax may produce still another. In a budget so great as Berlin's, the total of these figures will not bulk very large. Everything comes back, therefore, to the revision of the fundamental Prussian law on the subject, particularly with regard to the *Kontingentierung* principle. While the financial administrator will thus find the results recently obtained in Berlin of little importance, the financial theorist must consider some of them very significant. The bringing to light of the cardinal defects of the law of 1893, the change from rental to capital value assessment of real property, the theatre-ticket tax and above all the effort to get at the unearned increment, are worthy of the most careful attention.

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PRIVATE PROPERTY IN MARITIME WAR.

THE war between Russia and Japan, happily now ended, has brought forward again in the field of diplomacy and in that of political theory a very important question of international law, and one that has been much discussed by the foreign offices of Europe and especially by the department of state at Washington—the question of the inviolability of private property in maritime warfare. During the recent conflict in the Far East acts of confiscation at sea have been very numerous, and not infrequently they have been contrary to the generally recognized principles of modern law. It is therefore of the greatest interest to all nations, without exception, to affirm anew the principles which have been disregarded and to secure their future recognition. It is especially to the government of the United States that the attention of continental statesmen and publicists is turned at this juncture, because after the outbreak of hostilities between Russia and Japan the Congress at Washington, by a joint resolution which was approved by the president April 28, 1904, expressed the desire that private property at sea, not contraband of war, should be declared inviolable; nor was this the first occasion on which the United States addressed itself to the great powers in behalf of a reform in the laws of commercial and maritime neutrality. The American invitation will not fail to find acceptance on the part of Italy; for in that country the principle of the exemption of enemies' private property from seizure at sea has enjoyed general approval ever since the International Maritime Law Congress at Naples, which was opened June 30, 1871, after the Franco-German war; and even before that date the principle had found recognition in the treaty between the United States and Italy, signed on February 26 of the same year. In consequence of the events in the Far East, the history of this principle and its theoretical justification have again become matters of present interest, and their discussion has again

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become urgent. The desire expressed by the American Congress ought very soon to be taken under consideration by the governments of all the other nations.

In land warfare the principle of the inviolability of private property of the enemy is generally recognized, but in maritime warfare the right of prize—a tradition of barbarous times—is still enforced.[1] There is no sovereignty on the seas; and the capture of merchant vessels belonging to enemies, of their cargoes and very often even of their crews, is still classed among the admissible measures of war. The hostilities between Russia and Japan afforded numerous examples of such proceedings, and in some cases capture was even replaced by the sinking of merchant ships. The contrast between the principles which govern war on land and at sea has become even more illogical since the practice has been established of granting to the enemy's ships that are in port at the outbreak of hostilities free departure and exemption from capture for a limited term.[2]

It must be admitted that war at sea and war on land are governed by diametrically opposite rules. On land the theory that war is a relation between two states is really accepted, and in consequence it is recognized that private property must be respected. If then there is a difference between the two kinds of war, on what rational and juristic principle is it based? This question was raised long ago and has been fully debated in the scientific field. Science has proclaimed the principle of the inviolability of private property. This principle, however, still requires the sanction of treaties to make it practically operative. Will the United States continue to serve the cause of civilization by taking a further initiative in this direction?

The vicissitudes through which private property at sea has passed at different historical periods bring out more clearly

[1] Calvo, Droit international, vol. iii, p. 247.

[2] See, for example, the French declaration of March 27 and the British order in council of March 29, 1854, by which, at the outbreak of the Crimean war, Russian merchant ships were allowed six weeks in which to depart, and were also permitted to proceed to their respective destinations. See 46 British and Foreign State Papers, 39, 242. Similar decrees have since been issued by other powers on the outbreak of war.

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than any *a priori* reasoning the philosophical and rational side of the question, and enable us at the same time to formulate the limitations which science itself, in certain well settled cases, must recognize as applicable to the principle of inviolability. A historical review will also most effectively refute the adverse theories, according to which the great sea powers ought to consider any prospect of reform, even the most justifiable, as prejudicial to their interests and to their existence.

I.

In the ancient world persons and things were equally exposed to the hazards of war on land and at sea. In either case the object was the same—conquest, spoliation and subjection of countries and individuals.[1] This ancient theory of war is recognized by many modern writers as still substantially true. In their opinion it still exists in principle, although it has been attenuated by sentiments of humanity. In reality this theory sprang from the fact that, in those remote times, war on land and at sea was a true *bellum omnium contra omnes*. The individual was absorbed by the state.

It is impossible not to recognize the truth of Bluntschli's remark, that the admirable political sense and legal spirit of the Romans in a measure regularized war and in many respects softened its rigors; but the opinion of some writers, that the right of neutrals was already respected in the ancient world, seems to be merely a bold hypothesis. This opinion is quite irreconcilable with the lack of any rules regarding war at sea and with the fact that piracy was everywhere practised. The ancient authors furnish no basis for such a theory.

II.

With the year 476 of the Christian era begins a second and long historical period which extends to the close of the fifteenth century. The existence of an immense empire which included all the civilized world had been fatal to the development of international law; it rendered such a system unnecessary. The

[1] Bluntschli, Das Beuterecht im Krieg, und das Seebeuterecht insbesondere.

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establishment of numerous independent states, after the invasion of the barbarians and under the influence of Christianity, seemed on the contrary favorable to the development of such a law and to the civilization of warfare. But to all advances in the law of war, corresponding to those made in the law of peace, feudalism was obstinately opposed. It placed such obstacles in the way of the extension of international relations that the movement in this direction attained real success only when feudalism itself began to decline. It was in this latter period that prize courts were established, and that privateering made its appearance as a separate and distinct institution, side by side with the older institutions of piracy and of private war which it was destined to displace.

When the question of the right of neutrals was first raised, a long step was taken towards the civilization of maritime warfare. From that moment we may date the birth of the movement out of which has been evolved the principle of the inviolability of the enemy's private property.

In the *Consulatus maris*,[1] in which the maritime customs of the middle ages are recorded, this evolution is clearly reproduced. In this compilation no question is raised as regards the ships and the merchandise of the enemy. In chapter 231 it is said that it is unnecessary to speak of these, because "every one is sufficiently informed to know what is to be done with them." On the other hand there is discussion regarding "neutral merchandise on board of an enemy ship" (chapter 274). According to the *Consulatus* enemy goods are always confiscated even when they are being transported under a neutral flag, while neutral goods are respected even on board of an enemy ship.

It was in this period that the institution of privateering became fully developed. It owed its origin to private war at sea, which still existed in the middle ages. The law was obliged to admit private conduct of maritime war,[2] for neither joint

[1] This collection of maritime customs, which comes to us apparently from Barcelona, cannot be older than the twelfth century, nor can it have been compiled at any later period than the first half of the fourteenth century. *Cf.* Pardessus, Collection des lois maritimes, and Schupfer, Manuale di storia del diritto italiano.

[2] The statutes of the twelfth and thirteenth centuries permitted all persons who

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voyages nor private expeditions of merchants—who themselves were in no wise backward in plundering their fellow-citizens—were strong enough to combat this scourge of the seas. As the governments had as yet no regular naval forces with which to conduct war at sea and destroy their enemies' commerce, they had recourse to private shipowners. The latter, desirous of booty, were glad to arm their vessels and prey on the enemy. At the outset privateering was controlled by no authority nor subjected to any restraining rules; the laws in fact drew no distinction between privateers and pirates.[1] Soon, however, the maritime cities undertook to impose limitations upon the new scourge, either by reciprocal agreements or by direct regulation of privateering. Pisa and Arles bound themselves in 1221 by a treaty.[2] Pisa again by its *Breve curiae maris* in 1298 compelled privateers to ask for letters-patent and to deposit money as security.[3] Towards the end of the fourteenth century, in the kingdom of the Two Sicilies, we find privateers forming a corporation and having at their head an admiral. In France, in 1373, Charles V established a tribunal having jurisdiction over prizes, at the head of which was an admiral who issued *letters de marque*. In England, in the reign of Henry V an act of Parliament (1414) declared that every privateer should bring its prizes into an English port and give notice to the conservator of the peace.[4] At the end of the fifteenth century the law of maritime war permitted the captor of an enemy merchant vessel to make prisoners not only of the sailors but also of any subjects of the hostile state who were found on board. In like manner harmless passengers on a neutral ship were subject to capture and imprisonment if they were identi-

deemed themselves wronged by an inhabitant of another country "currere supra malefactorem, donec plenarie fuerit emendatum." In such cases the magistrates admitted the confiscation of the goods of the offender's fellow citizens also. Pardessus, *op. cit.*, vol. ii, introduction, c. xxi.

[1] The comprehensive formula was: "Piratae praedones, corsarii qui piraticam exercent." Cauchy, *op. cit.*, vol. i, p. 334.

[2] Muratori, Antiquitates italicae medii aevi, vol. iv, col. 398.

[3] Pardessus, *op. cit.*, vol. iv. p. 586.

[4] 2 Henry V, c. 6, cited in Twiss, Law of Nations, War, 377.

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fied as subjects of the hostile state. And since it was conceded in treaties that the hostile character of a ship exposed all merchandise on board to confiscation, it was inferred that subjects of friendly powers might be taken prisoners if found on an enemy ship.

III.

During a third period, extending from the beginning of the sixteenth century to the end of the eighteenth, serious inroads were made on the rules of the *Consulatus maris*. New severities, the justification for which has been sought in vain, placed the property of enemies in a maritime war in an even worse position. France, in its ordinances of 1532, 1543 and 1584, applied the principle that the hostile flag exposed the merchandise to confiscation. And just as neutral goods on board an enemy ship were declared to be good prize, so conversely it was recognized that a neutral ship carrying enemy goods was subject to confiscation.[1] In a "declaration" of 1650 an attempt was made to return to the rules of the *Consulatus* as regarded neutral goods; but since, under this declaration, "the flag does not cover the goods unless such an agreement has been made in treaties," the progressive position taken by the French legislator was destined to remain almost valueless. Under Louis XVI a step was taken backwards. The ordinance of 1681 re-established the rule that an enemy ship made enemy goods, and that enemy goods made an enemy ship. And after it had been declared, in 1704, that all goods of hostile manufacture were good prize, it was decided in 1705 that the neutral should bear all the costs of the judicial proceedings, "however little ground there may have been for the capture of a neutral ship by a privateer."

Better tendencies were displayed in the reigns of Louis XV and Louis XVI. During the war of the Austrian Succession Louis XV, in a "regulation" of October 21, 1744, returned to

[1] Sir Leoline Jenkins doubted whether these ordinances were ever actually enforced by the French prize tribunals, and produced evidence that they were issued only *in terrorem* to put an end to neutral disguises of enemy property. Wynne's Life of Jenkins, vol. ii, p. 720.

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the old rules of the *Consulatus*, for while the confiscation of enemy goods in a neutral ship was maintained, it was declared that the ship should be restored. Louis XVI went a step further; in his regulation of October 21, 1798 (article 1), he admitted that the neutral flag might make hostile goods neutral. Unhappily the converse proposition was also accepted, that the hostile flag made the neutral cargo hostile.

As regards treaties, the law which they contained was variable. An agreement between Henry V and the Sultan Ahmed I, in 1604, laid down the rule that the flag covered the goods. The same stipulation appeared in the treaties of the Pyrenees, of Ryswick and of Utrecht, and in several other treaties concluded between France, England and Holland.

England, as is shown by the orders in council of 1625 and 1626, admitted in theory the principles of the *Consulatus*, but departed from them in practice. England did much more; it adopted various measures to paralyze the commerce of its enemies, and during the Seven Years' war (1756–1763) it confiscated Dutch ships trading with the French colonies, on the ground that the licenses which France granted to them for that purpose made them "French by adoption," and it prevented foreign vessels from engaging in the coast trade along the shores of the states with which it was at war.

The maritime cities of Italy continued in general to follow the *Consulatus*. Goods found on an enemy ship were always regarded as enemy goods unless the contrary was proved.

IV.

At the end of the eighteenth century maritime law entered upon a new period of development. The declaration by which, in 1780, Russia laid the foundation of the "armed neutrality," should be regarded as a monument of liberality and of political sagacity. This declaration, to which all the principal powers of Europe except England announced their adhesion as belligerents or as neutrals, and which compelled England to moderate the activity of its privateers, marks one of the most important steps in the history of international law. Nothing was left equivocal or uncertain as regarded the position of neutrals.

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Neutral freedom of trade with belligerents, definitions of contraband and blockade, these were advances on the road which leads to the respecting of the private property of enemies.

More remarkable progress was to follow. The treaty of friendship and of commerce which was concluded September 10, 1785, between the United States and Prussia, is for our purpose of the first importance, for it contains the principle of the inviolability of the private property of enemies in maritime warfare. Until that moment that principle had appeared only in connection with the matter of neutrality, being asserted only as regarded hostile property on a neutral ship; now at last it was set forth specifically, in such manner that our historical inquiry may henceforth be confined to this principle exclusively.

In 1792, M. de Kersaint, deputy from Paris, introduced in the Assembly a bill looking to the abolition of privateering and the recognition of the exemption of private property from capture at sea. The Assembly, however, voted in favor of a measure proposed by Pergnaud, inviting the powers to enter into agreements in accordance with the principles set forth by M. de Kersaint. The United States, Hamburg and the Hanseatic towns announced their unreserved adhesion; no other state made any answer. The bitter conflict which broke out a little later gave, however, the most decided negative to the principles which the French Assembly had endeavored to proclaim. In France itself, and to a still greater degree in England, the excesses of the past were renewed. Some check had to be interposed, and the convention of armed neutrality to which Russia, Prussia, Denmark and Sweden gave adhesion, constituted such a check.

The war between France and England at the beginning of the nineteenth century inflicted serious blows upon neutral commerce; the British system of blockade and France's continental system pushed it to the verge of ruin. Several orders in council, in 1806 and 1807, laid down hard and very unjust rules regarding blockade and the coast-trade. To these rules the Milan decree of 1807 was a fit pendant. In this document it was declared that any ship which had submitted to search by an English war vessel, or had consented to a voyage to Eng-

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land, or had paid any duty to the English government, was *ipso facto* denationalized, and was to be deemed good prize.

In the period between the Congress of Vienna and the Crimean war real advances are to be noted. During the French expedition into Spain in 1823, France refused to authorize the arming of privateers in its ports. Spain, however, saw fit to adopt a different course.

Until the middle of the last century, accordingly, enemy property on an enemy ship was still viewed as good prize; but in the law laid down in treaties and in the actual conduct of war were to be found exceptions and an increasing tendency to consider private property inviolable.

V.

The declaration of the Congress of Paris, April 16, 1856, marks a great step forward in the development of international law. This declaration was signed or adhered to by forty-two states. In it, as is well known, the following principles were proclaimed:

(1) Privateering is and remains abolished.

(2) The neutral flag covers enemy goods, except contraband of war.

(3) Neutral goods, except contraband of war, are not subject to capture under the enemy flag.

(4) A blockade, to be binding, must be effective, *i. e.* it must be maintained by a force sufficient really to forbid access to the blockaded coast.

It is equally well known that Mexico, Spain and the United States did not give their adhesion to this declaration. Their refusal, however, was based on different grounds. The two states first mentioned declined to agree to the abolition of privateering; the United States, however, offered to renounce privateering, if the powers would go further and exempt private property altogether from capture, except in the cases of contraband and blockade. This proposal the United States afterwards withdrew. Even in England, where the government had not pronounced itself on the proposal, many chambers of commerce, and numerous writers and eminent statesmen,

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among whom were Cobden and Lord Palmerston, did justice to the new ideas and made special appeals in their favor to public opinion. Even in the House of Commons attempts were made to show the propriety of abolishing the right of capture.

On the continent the agitation was more energetic. At Bremen, December 2, 1859, three hundred merchants passed resolutions favoring the inviolability of private property in time of war. Many chambers of commerce in France, Germany, England and Sweden sent notice of their acceptance of the Bremen resolutions.

The old law of prize was applied in 1864, during the war between Denmark and the German powers. But by article 13 of the treaty of peace of October 30, 1864, these states agreed to restore the ships they had captured or to pay their value. This agreement, as Bluntschli affirms, implied a recognition of the rule that private property ought to be respected even in war at sea. Already before this, in article 3 of the peace of Zurich, November 10, 1859, France had returned the ships captured from Austria and not yet disposed of by the prize courts. Similarly in 1865 France returned to their owners the captured Mexican ships.[1]

The first war in which the principle of the inviolability of private property was applied was that of 1866 between Italy and Austria. Chief credit for this belongs to Italy, which had only to put into execution articles 211 and 212 of its code for the merchant marine; for these articles established on the basis of reciprocity the exemption of the private property of enemies from capture at sea, except in the cases of contraband and of blockade. This state of things led the other belligerents, Prussia and Austria, reciprocally to bind themselves to show equal respect to private property. This action would doubtless have constituted an authoritative precedent if the three states then at war had been the three leading sea powers. At the same time their example was destined to exercise a favorable influence by virtue of their position as powers of the first rank.

[1] Decree of March 29, 1865, art. i.

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The circumstance that Italy demanded as condition precedent a declaration of reciprocity on the part of its enemy possibly lessened in some degree the general approval with which the innovation was received. It must be remembered, however, that even with this reservation the Italian law in question constituted a remarkable step forward. Moreover, reforms must always be adapted to the environment. It would hardly be practicable for a state involved in a war at sea to abstain from attacking its enemy's private property when it possessed the power of making such an attack effective and when the enemy was already attacking the private property of its own citizens.

The principle of inviolability continued to be discussed everywhere, and the idea gained ground that the rules established by the Congress of Paris in 1856 were no longer adequate. In England, where the agitation was most widely extended, the chambers of commerce of Birmingham and of Bradford formulated in 1866 a proposal for the exemption of private property from capture; but this proposal, when submitted to the House of Commons, failed to secure the support of the majority. In France the movement had no better fortune; a motion laid before the Corps Législatif, April 11, 1866, was not brought to a vote. In the North German Reichstag also a motion was made, April 8, 1868, requesting the federal chancellor to take advantage of the friendly relations existing with the foreign powers, and to treat with them to the end that "the freedom of private property at sea in time of war should be raised to the rank of a principle recognized by international law." This proposal was adopted without a dissenting voice, but its adoption led to no visible results. That maritime law and practice were still unchanged became evident when war broke out in 1870. Inasmuch as the Emperor Napoleon did not renounce the right of capturing German ships the German government found itself forced to take similar measures in reprisal. In the treaty of peace in 1871, it was agreed that the captures already approved by the French prize courts should hold good, but that the ships not yet condemned by the courts should be returned.

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The principle of inviolability had thus made remarkable progress. France had shown itself in favor of this reform; Italy, Austria and Prussia had adopted it in their most recent wars; the United States had carried on an active diplomatic campaign for its recognition and had incorporated it in a treaty with Italy. The war between Spain and the United States was carried on by two nations which had not given their adhesion —although for opposite reasons—to the declaration of the Congress of Paris (1856), but neither power resorted to privateering. Both, however, exercised, subject to the rule that free ships make free goods, the right to capture the enemy's private property. In the recent conflict between Russia and Japan the inviolability of the enemy's private property was not recognized. It is quite clear, however, that neither the result of this war nor that of the American-Spanish war was in any wise affected by the number of merchant vessels that were sunk or captured. And experience has shown that this survival of barbarous times, besides being unjust, is equally injurious to those who adopt it and to those who are exposed to its operation.

VI.

After this summary of the history of the question, I enter the field of law.

In the reciprocal relations of modern societies peace has now become the normal state of affairs. To war, the *ultima ratio*, resort is had only when contentions between states are incapable of amicable adjustment. The ground gained in modern times by international law and the triumphant progress of the idea of arbitration has made the *casus belli* a much rarer thing in our day than formerly. But since in war each state employs its force to impose upon its adversary its view of the situation, it is found to be logical and reasonable that force should be employed only against force, *i. e.* against the hostile state and not primarily or chiefly against the private citizens of that state. Before this theory was formulated by Rousseau and developed by Portalis,[1] it was set forth by Giustino Gentili, in a work pub-

[1] *Cf.* also, on this point, Bluntschli and Gessner.

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lished in 1690, entitled *Dissertatio de eo quod in bello licet.* The theory is now accepted by the great majority of writers—by the majority even of those who oppose the exemption of private property from capture at sea. According to the doctrine of the ancient law, the declaration of war made all the citizens of the one state enemies of all the citizens of the other. This view is now generally rejected, and no writer would dare to assert it in the cruel words in which it was summed up by Vattel.[1]

Coming now directly to the subject in hand, the question which concerns us is to be formulated as follows: Is it possible to reconcile, from any juristic point of view, the existing theory of war with the right of confiscation which is still enforced in warfare at sea? To me the contradiction seems so obvious that any reconciliation is at least difficult. To say that war is the affair of the belligerent states means that the rights of peaceable individuals ought to be inviolable, and that not only should their persons be exempted from any ill-treatment or violence but their property rights also, which are an emanation of their personality, should be respected.

Only such acts of war, then, should be permitted as the necessities of war require. These necessities, as Pinheiro Ferreira correctly observes, may lead a belligerent to disturb indirectly persons belonging to the hostile state or the property of such persons; but it cannot be said that there is in such cases any real violation of the rights of private persons, for accidents which are the indirect although inevitable consequence of the exercise of a right can not be regarded as infractions of law.[2]

It has been said that war is indeed a relation between one state and another, but that the state is not an abstract entity, but a real and concrete individuality which includes within itself all the other individualities. In reducing war to a duel between the armed forces and in attempting to establish absolute respect for the property and trade of the enemy, the citizens and their goods are treated as strangers to their own state,

[1] Vattel, Le droit des gens (Paris 1863), vol. iii, p. 37, note.

[2] Massé, Le droit commun dans ses rapports avec le droit des gens, vol. i, p. 125.

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the private personality is separated from the public personality and the wealth of the individuals from the social wealth—a distinction which can be drawn only in the field of national law. Moreover all this would lead citizens to be indifferent to the fate of their country.

It is of course true that a state is composed of individual forces and that all its power and authority are derived from them; but it is equally true that when all the powers of a state are organized, there arises immediately a new personality, quite distinct from the individual personalities of which it is composed, and that this new personality has a new activity and consequently a new responsibility which is wholly unrelated to that of its members. And when it is maintained that the members of a state ought not to be exposed *uti singuli* in their persons and property to the attacks of the enemy, it is not asserted that the result of the war ought not to fall on all the citizens. Such an assertion would be absurd; for the burdens will always be shifted to the shoulders of the citizens, to an extent of which they will be only too well aware. All that I maintain is that war ought to be waged against states and not against private persons. All measures will be permitted which directly attack the hostile state, although they may indirectly harm the persons and the interests of peaceful citizens; but all measures should be forbidden which do direct harm to individuals for the sake of reaching the state in an indirect way. The citizens who at the outbreak of war are bound to place their persons and their goods at their country's disposal are not likely to remain strangers to its lot. In considering this point it should be remembered that in war the indirect damage often greatly exceeds the direct. Nor should we forget the restrictions which are necessarily imposed upon the principle of the inviolability of the enemy's private property at sea, especially in the matters of contraband and of blockade—restrictions which will weigh upon the peoples heavily enough to interest them in the issue of the conflicts in which their governments may be engaged. Confiscations and the destruction of sea-trade do not impel governments to make peace; on the contrary, these measures rekindle hatred. Reciprocal respect for the enemy's private

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property does not impair the solidarity which should exist between each belligerent state and its citizens. Private property is simply removed from the field of conflict into the inviolable and sacred field of the personal rights of the peaceful individual. In denying this principle we go back to the *bellum omnium contra omnes* and ignore the laws which are the laborious work of the international conscience. It is true, of course, that at times these laws have been infringed, but infractions of the principles of justice do not legitimize injustice, nor can the excesses with which at times victorious combatants have stained themselves be covered with the cloak of law.

Other arguments have been advanced which contest the inviolability of private property even in land warfare. Contributions and requisitions, it has been asserted, are at bottom nothing but a commutation of pillage, collective confiscation taking the place of individual confiscation. This view has been taken by many distinguished writers. The modern theory, however, regards contributions and requisitions as acts done in the exercise of the temporary sovereignty established by occupation. In accordance with this principle are the limitations upon the power of imposing contributions and requisitions which were formulated by the conference of Brussels, and later by the conference at the Hague. Moreover, there is no real analogy between requisitions on land and confiscations at sea. Requisitions are justified for the purpose of providing for the needs of armies;[1] they are not intended to destroy the enemy's trade. If the latter purpose were really entertained, then, as Laveleye has admirably put it, factories would be systematically burned because they constitute a source of the enemy's wealth.[2]

Against the principle under consideration other objections have been raised on the ground of differences between war on land and war at sea. It is admitted that on land war should be waged only between the organized forces of the belligerent states, and that for this reason the property of inoffensive individuals should, as a rule, be regarded as sacred; but it is main-

[1] Rolin Jacquemyns: "At sea the rule is, take whatever you can; on land, requisition what you need."

[2] Wheaton Riquelme.

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tained that at sea it is necessary for the contending states to strike inoffensive persons and private property. The high seas, it is urged, are open to all nations; they are not anywhere under the exclusive domination of a single state; and the right of every ship that sails them is the same. On the continents a different state of things exists; these are divided into various territories which are subject to different sovereignties, each independent of the other. The supreme end of war on land is occupation of hostile territory. While such occupation continues, the victor exercises all the rights of sovereignty previously exercised by the vanquished enemy. Under such circumstances it is unnecessary to seize private property, for contributions and requisitions suffice to meet the needs of the occupation. Moreover, if the occupation is to be temporary, the good sense of the victor will restrain him from driving the inhabitants into acts of resistance dictated by fury and despair; and if the occupation is to be permanent, the victor will take good care not to ruin a new portion of his own territory. At sea it is equally necessary to injure the enemy, but the difference of conditions calls for different methods. The interruption of the enemy's commerce and navigation is a supreme necessity, and it is impossible to accomplish this except by confiscating his merchant ships and their cargoes. Such confiscation shortens the duration of hostilities and saves bloodshed.[1]

It is not enough, however, to assert the absolute necessity of destroying the enemy's commerce and navigation; the assertion should be proved. The arguments on this side begin and end by begging the question. On this point I may recall the well known assertion of Lord Palmerston, that no great country has ever been conquered by reason of its private losses.[2] The annihilation of national fleets has always proved a far more serious blow than the temporary ruin of national commerce. Supremacy at sea was at stake between England and France at

[1] This is the ground taken by Lorimer in *Revue de droit international*, 1875, pp. 676, 677.

[2] "Question statesmen, none will tell you that the depredations of privateers have ever decided the success or the final result of a war." Mably, Oeuvres complètes, vol. vi, p. 546.

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Trafalgar; but the losses inflicted on Northern commerce by the Confederates in the American Civil war did not affect the result. The possible influence of confiscation has been further lessened in our day by the abolition of privateering, now practically accomplished, and by the facile and complete protection accorded to the enemy's property by a neutral flag.

A singular argument on the other side of the question is contributed by Ortolan—an argument based, like the others we have noted, on the peculiar exigencies of warfare at sea. This writer says:

> If we admit the principle of the inviolability of private property, we enable states to withdraw themselves from the effect of war by simply refusing battle. A state would have only to keep its warships in its harbors, while its merchant ships, carrying on their trade in a peaceful manner, would furnish the state itself with the means of resistance.

A state adopting such a course would merely draw the war into its own territory; and in addition it would run the risk of having all its communications interrupted by a blockade of its harbors and coasts. Nor would free navigation on the part of its merchant vessels be of any direct assistance to its military operations, for the enemy would retain the right of visit and the right of seizing contraband goods.

Up to this time the arguments drawn from the peculiarities of sea warfare have been considered from a practical point of view. They must now be examined from the legal point of view; for even if confiscation were proved to be useful and necessary, it would not follow, in the opinion of those who recognize a law of war, that it is lawful. Difference of place, the difference between sea and land, cannot change the essence of a legal relation. The mode in which a principle is applied may vary, but its absolute force cannot be modified. In land warfare the occupation of hostile territory, and consequently of estates belonging to individuals, is unavoidable, for the war cannot be fought in neutral territories nor are territories to be found which belong to no one. In sea war, on the contrary, the hostile forces may meet, fight and destroy one another without the least necessity of disturbing peaceful commercial

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travelers. Even if we start with the theory that the ship is floating territory, we cannot logically conclude that, because territory is occupied in land warfare, ships should be confiscated. The ship is viewed as a bit of territory as regards rights of sovereignty, but it does not thereby cease to be private property, and on land private property is not confiscated. If then the elements of the legal relation in question are constant, and if the difference of place must be regarded as immaterial, why should the relation be governed by different laws according as the property affected is land or sea property?

Among the objections raised against the principle of inviolability there is, however, one which is set forth by a number of writers and which deserves serious consideration. The merchant marine, it is said, is a means of attaining sea power constantly at the disposal of the state to which it belongs; in case of need, crews and ships alike may become efficient instruments of war. Hence the necessity of striking it. In this contention there is undeniably a degree of truth, but there is also a degree of exaggeration, and above all there is too much haste in reaching the desired conclusion. There is no doubt that in time of war the state can requisition the ships belonging to private citizens. In many countries there are express legal provisions to this effect; in any case the right of the state is indisputable. But such a right is in no wise peculiar to war at sea; in land warfare also the state, in case of need, takes possession of the railways even when these are owned by private corporations. The essential point in question is the possibility of transforming the merchant ship into a war ship in such fashion that it can take part in military operations. Such a possibility exists, although in many cases the transformation is neither easy nor rapid. The English admiralty obliges the the builders of steamers to observe certain rules intended to facilitate the transformation of such vessels into war ships. Something of the sort has been attempted in Germany also. In any case merchant ships can, of course, be used as transports. The two principal navigation companies in Russia, which receive very considerable subsidies from the government, bear the name of "volunteer fleet" and are subjected to

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special obligations and rules as regards the employment of their steamers in time of war. The degree of assistance which these two companies were able to render to the government during the recent war is fresh in our memory.

We must, however, observe that the assistance which the merchant marine may be able to offer to the state in time of war is not sufficient to justify its confiscation; for, following the same reasoning, we should be obliged to sanction in the case of land warfare a complete, or nearly complete, spoliation of the enemy, since everything which a citizen possesses might in some contingency be found of advantage to his country in time of war. In the second place we must remember that whenever there is a question regarding merchant ships which are already fully equipped for war or of which the equipment has already begun, their confiscation is fully justified. Finally we may admit without hesitation that in certain special cases confiscation of ships at sea may be justified on grounds which are analogous to those which justify seizure of property on land; so, for example, in cases analogous to those in which requisitions are justified.

In admitting the principle of the inviolability of the enemy's private property at sea, the conflict between the laws of war and individual rights, which some writers are disposed to assume, and the conflict between the treatment of private property in land warfare and that accorded to it in warfare at sea completely disappear. In the same way disappears also the still more remarkable contradiction between the rules of law and those of political economy. This latter science forbids us to continue to speak of "hostile commerce"; it teaches, on the contrary, that commerce, which to-day has become cosmopolitan, finds the conditions of its development not in antagonism between different nations but in their reciprocal relations. If in practice governments show that they are not persuaded of this fact and if in their economic policy they seem to us at times to be fettered by the doctrines of the past, science must not grow weary in the task of proclaiming this truth and setting forth the practical consequences which are derived from it in all departments of social and international activity.

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Capture is apparently injurious only to the enemy; but the injury recoils indirectly on the very nation which effects the capture. The injuries, for example, which the Crimean war inflicted upon English and French trade are universally known. International relations become each day closer and more complex; the *societas gentium* forms an organism the structure of which is tending constantly to become more complete. The right of capture ought to be condemned, once for all, in its last remaining manifestation. It should be abolished in the interest of the whole world.

VII.

The principle of the exemption of private property from capture at sea cannot be stated without certain necessary and legitimate limitations. These relate to the violation of blockade, to contraband of war and to certain other special situations which I shall notice only in a summary manner. The prohibitions which relate to contraband of war and to the breaking of blockade ought not to be regarded as exceptions to the principle of exemption but rather as deductions from the principle itself or as corollaries which are included logically in the principle. But there are other limitations which must be regarded as true exceptions. Surrounded by proper safeguards and kept within clearly defined limits they will serve to harmonize the interests of private persons with those of the belligerent powers.

Just as armies pushing forward into hostile territory may requisition all which serves their necessities, so in warfare at sea a fleet may make provision for its needs by seizure of food, fuel, munitions and arms, without regard to the character of the port to which they are consigned, provided always that these articles are found on a hostile ship. The right exercised in such a case is what the French have called "preëmption." This right has been asserted also by many English and American writers under the theory of what is called "relative" contraband of war. A better basis for this right is to be found where Gessner and several others find it, in the general right of self-preservation, "recognized in every field of the law, in civil law and procedure, in international law and in criminal law."

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The exercise of this power over neutrals would of course involve, as Hautefeuille warns us, very great perils. The analogy to requisitions in land warfare indicates the propriety of admitting it only as against the enemy. It should be exercised, moreover, only under several definite conditions; *e. g.* cases of real and proved necessity and certain well settled modes of indemnification both for direct and indirect damages.

Under other circumstances, which need careful definition, other and more extended powers must be granted to belligerents; *e. g.* the power of destroying merchant vessels whenever the exigencies of military operations render such a measure necessary.[1] That which is already conceded to the prejudice of neutrals ought to be conceded *a fortiori* to the harm of enemies, provided that certain formal guaranties are respected and that indemnity is paid. In this matter also the analogy is clear between the two sorts of war, at sea and on land.

There are some, however, who maintain that since a state has the power of turning its merchant vessels into war ships, the other belligerent, under the pressure of immediate military necessity, should be entitled to seize merchant vessels belonging to the enemy in order to use them for its own advantage, provided always that the price of the vessels be paid to the owners. Such a restriction would certainly eliminate the chief objection which has been raised against the principle here advocated, *viz.* the possible transformation of a merchant marine into a war marine.

Another right which will be more readily conceded than those just noted is the right of one belligerent to make temporary use of merchant ships of the other in transporting victuals, munitions, fuel, despatches, *etc.*, provided that the ships, after being so used, are released, and that a suitable indemnity is paid to their owners. As against neutrals this right was formerly called *droit d'angaria*. As regards its exercise at the cost of neutrals, Gessner's remark may be cited: "that it may be justified, although incompletely, by the necessity of self-preservation and by the payment of satisfactory indemnity."

[1] During the last Franco-German war six English ships were sunk by the Germans in the Seine in order to close the passage against French ships.

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As to its use to the prejudice of enemies it may be remembered that in warfare on land the means of transporation and particularly the equipment of railroads are very frequently requisitioned by belligerents.

What is here advocated is the abandonment of the present system of arbitrary confiscation and the substitution of a system of confiscations made on specified grounds, regulated in a legal manner and employed as exceptional measures. When the new principle has been accepted, regard will still be had for the necessities of attack and defense; for the principle will not be accepted without the legitimate and necessary restrictions. There is then no pretext for delaying the accomplishment of a reform which is so desirable, and towards whose realization steady progress has been made for a century. Supported as it is by nearly all writers, discussed in parliaments and in several instances favorably received, recognized in the code of one maritime nation, supported by the United States since the year 1875, put into practice in one great war by Italy, Austria and Germany, the principle of the exemption of private property at sea is more than a desire, it has become a demand of the international conscience of our day. It is to be hoped that the time is near at hand when this principle shall be universally recognized and applied. Russia and Japan might have set us a good example in abandoning their useless attacks against each other's merchant marines and concentrating their energies upon the seizure of contraband of war. But objectionable practices on the part of this or the other nation in recent wars cannot prevent us from reaching the conclusion, alike from the point view of law, of economics and of history, that the universal recognition of the principle of the exemption of private property from capture at sea is necessary and near at hand.

GIULIO MARCHETTI FERRANTE.

THE ITALIAN LEGATION,
BERN, SWITZERLAND.

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REVIEWS

L' Estremo oriente e le sue lotte. By ENRICO CATELLANI. Milano, Fratelli Treves, 1904.—486 pp.

La Révolte de l' Asie. By VICTOR BÉRARD. Paris, Colin, 1904.—ii, 434 pp.

By far the larger part of Professor Catellani's book is devoted to a very careful study of the political and social institutions of China and of the international relations of that empire. More space is devoted to the internal conditions of China than the title of the book would lead us to expect, but we can have little fault to find with the author, as he has given us a very clear and sane exposition of the salient features of the Chinese situation. The author discusses the difference between China considered as a system of states and as an empire, and points out that, while the Chinese have from time to time parted with dependent territory apparently without great reluctance, they are very sensitive whenever an encroachment upon the more truly national territory of the eighteen provinces is attempted. The author's treatment of the democratic element in the Chinese constitution is very enlightening, especially when he points out that the doctrine of resistance, resting upon the theory that public welfare is the highest law, has always been an accepted part of Chinese constitutional law and has in the long course of Chinese history been used again and again as a basis for important political action. The author believes that the incompetence of the present dynasty is so keenly felt by the Chinese people themselves that the doctrine of resistance would long ago have been invoked in order to bring about a change of rulers, had it not been for the incubus of foreign intervention which has prevented any normal progressive development in Chinese civilization. In the words of the author:

> Revolution reduced to a system by the masters of Chinese thought has been a constant element in Chinese public law and one of the most important factors in the conservation and the periodical renewal of the empire. China at present suffers through foreign intervention like a sick organism which is not allowed to eliminate the morbid elements which cause it to suffer.

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On account of his thorough understanding of Chinese life and his appreciation of the virtues of the Chinese people the author is naturally not friendly towards the predatory attempts that have recently been made upon China. He emphasizes especially the dangerous character of the political ambitions of Russia and does not fail to point out the difference between her action and that of such nations as Great Britain, which is pursuing purely commercial interests, and the United States, which has economically the greatest stake in China and which has always pursued a policy of steady friendliness. This thorough-going study of actual conditions in the Orient reveals the groundlessness of the fears of a yellow peril conjured up by interested governments and sensation-loving writers. The author says:

> The true yellow peril would threaten Europe if, together with Manchuria, all of Mongolia and the northern provinces of China should fall into the power of Russia. Fifty or sixty millions of Chinese subjects of Russia would indeed be a menace to the British power in Asia and to the very civilization of Europe itself.

While Professor Catellani has taken for the basis of his work the actual conditions in China, the French publicist, M. Bérard, views the oriental situation from the standpoint of western civilization and of the principal western nations; the populations of the Orient, with the exception of Japan, appear rather as the pawns in a great game than as themselves the principal factors. In the opening chapters the author tries to determine the formula of the difference between oriental and western civilization. He adduces many considerations to prove that the difference is real, and lays special emphasis upon the transformation which the religion of Christianity, originally oriental, has undergone through its fusion with Greek, Roman and Germanic influences. Europe is thoroughly humanistic. It has been the principal stage of conscious human effort. "The attitude and ideal of European civilizations is the struggle for life; resignation to life is the common trait of all Asiatic civilizations." The reason for this fundamental difference in thought, life and institutions the author sees in the respective natural environments. Asia is constructed upon an enormous scale, and the manifestations of nature are there so overpowering that humanity has not been able to achieve a sense of mastery and primacy. The author speaks of two Asias; *la féconde*, the luxuriantly fertile valleys of China, India and Mesopotamia, and *la féroce*, the forbidding highlands of Mongolia, Thibet and Turkestan. The history of Asia is but a series of conquests of the nations dwelling in the broad and rich plains by the poor but warlike tribes of the mountain regions. From the latter, too, came the

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invading hordes that spread terror through Europe in the Middle Ages. Japan represents both the ferocious and the fruitful Asia, and this representative dualism the writer traces through the whole of Japanese life and institutions. The subsequent chapters of the book are taken up with the treatment of the Russian descent, Japanese expansion and the rôle of Great Britain. The author takes the conventional unfavorable French view of Japanese social conditions, and while he gives a correct and highly interesting account of the vast plan of Russian empire, he fails entirely to put himself in the place of the oriental populations. The primary motive of Japan appears to him a desire for expansion, and he does not give due weight to the manner in which her very national life was threatened by the Russian advance. He accounts for the pro-Japanese policy of Great Britain as due primarily to the views and aims of Lord Curzon and the Indian government. London might have entertained the idea of an understanding with Russia; Calcutta never. When he says that the negotiations between Russia and Japan were broken off "for the benefit of the imperialists and speculators of Great Britain," he certainly allows his insight into the diplomatic game of world politics to divert his attention from the deeper forces involved. However, notwithstanding a certain proneness to speculation and antithesis, the book shows a masterly grasp of the general situation and presents a striking view of the drama of oriental politics.

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The United States and Porto Rico. By L. S. ROWE, Ph.D. New York, Longmans, Green & Co., 1904.—xix, 271 pp.

The colonial policy on which the United States unexpectedly entered in 1898 has given rise to grave questions as to the treatment of the dependencies then acquired. As the result of the war in the Philippines and the distress that has since prevailed there, American public interest, so far as any has existed, has centered in that group. But there is a Porto Rican question as well as a Philippine question. It is admitted by all candid observers that there is not only great economic depression but also much political discontent in Porto Rico. Indeed, Professor Rowe, judging by our experience there as well as in the Philippines, suggests the question "whether we have not overestimated our spirit of tolerance and the elasticity of our ideas." In suggesting this question, he has in mind the disposition shown by some of the American residents to change the entire system of law and government and of domestic institutions, on the theory that everything that did not con-

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form to the American system "was not only un-American but anti-American." But, while he points out that this excessive reforming zeal was unpractical and dangerous, he believes that the errors which it involved were successfully avoided.

After a survey of the situation in the West Indies and an indication of the probable spread of American influence in that quarter, Professor Rowe discusses the change of sovereignty in Porto Rico and the legal questions involved in the insular cases. He then describes the people of the island, the period of military rule and the establishment of civil government; and, following the inauguration of the new government, he discusses the problems which it encountered—the contact of the Spanish with the American legal systems, the reorganization of the judiciary and the introduction of trial by jury, the reconstruction of the system of local government and of the finances and the creation of a suitable civil service. Of all the reforms thus introduced, he seems to be least hopeful of the success of the experiment of trial by jury, because of the fact that the civic training of the people has not been such as to render probable the proper administration of the system. In this relation it is interesting to note the fact that trial by jury has lately been abolished in Costa Rica.

Professor Rowe expresses the opinion that, whether we consider the progress of Porto Rico from an industrial, political or social point of view, the conditions are singularly favorable to the successful solution of existing problems. He admits, however, that every party convention that has been held in the island since the change of sovereignty has declared against the existing form of government; that repeated protests have been made against the appointive upper house of the legislative assembly; that the Federal party has inserted in its platform a request for the repeal of the Foraker act and has made formal demand on Congress for the same organization as other territories of the United States; and that the ambitions of both political parties extend to the admission of Porto Rico as a state of the Union. In the months that have elapsed since his volume was published, it is understood that conditions in the island have not tended to improve but have on the contrary grown less favorable, and that this circumstance is due in no small measure to the bad economic situation and to some extent to a growing apart of the natives and the American element, the latter including the governing officials. As the result of the change of sovereignty, the island lost an old and established market for some of its products, particularly its coffee, in Spain, and has failed to gain a corresponding advantage in the United States. Moreover, after the high

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and exaggerated expectations at first cherished by the inhabitants as to the benefits to be derived from American rule, there was sure to be a certain revulsion of feeling, accentuated by the sense of having broken with old ties, traditions and habits; and this feeling was no doubt further aggravated by the attempt at one time made, but in the end defeated by the decision of our Supreme Court, to apply to the inhabitants our immigration laws, just as in the case of aliens. All these things have to be taken into account in estimating the situation in Porto Rico.

J. B. MOORE.

The National Administration of the United States of America. By JOHN A. FAIRLIE, PH. D. N. Y., The Macmillan Company. 1905. —xi, 274 pp.

It is somewhat singular that although we have been overwhelmed in recent years with a flood of treatises on the history, the constitution and the government of the United States, not until now has anyone essayed the task of preparing a comprehensive and systematic work on the organization and the administrative activities of the national government. It is undoubtedly true, as Professor Fairlie points out, that the important domestic problems confronting the national government at the present time are those of administration, and that they must in the future command the attention which was formerly bestowed upon questions of constitutional law. It is essential therefore that American students should take up in a more systematic manner the study of administrative law and organization; for it cannot be denied, Mr. Dicey's opinion to the contrary notwithstanding, that there is an administrative law of the United States and that it is destined to occupy a place of increasing importance in our federal jurisprudence. The book which Professor Fairlie has given us is a highly praiseworthy contribution to a hitherto neglected subject, and it is no exaggeration to say that it will prove of inestimable value to college teachers and students. The scope of the work is comprehensive and the arrangement excellent. In all there are seventeen chapters dealing with the administrative powers of the president, of the Senate and of Congress; the organization and functions of the cabinet; the principles of administrative organization; the history, organization and activities of the nine executive departments; and the work of the various detached bureaus, such as the civil service and interstate commerce commissions, the government printing-office, the library of Congress and the Smithsonian institution. Each chapter is prefaced by a bibliography of select references to the literature of the subjects treated therein, and there is a table of cases at the

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end of the volume. About one-sixth of the volume is devoted to a consideration of the administrative powers of the president, which the author divides into two main groups: First, those of a general character, such as the power of appointment, removal and direction; and second, those of a more special nature, such as the conduct of foreign relations, the command of the army and the navy and the power to pardon offenses against the United States. Professor Fairlie points out that formerly the administrative powers of the president were of less importance than his legislative powers, partly on account of the relative insignificance of the administrative service and partly on account of the lack of an effective system of executive control. But the enormous expansion of federal activities and the resulting growth of the administrative service have largely reversed this position. With regard to the various remedies suggested for the correction of the evils arising from the misuse of the power of appointment by the president, Dr. Fairlie expresses the opinion that the only solution is the recognition and appreciation both by the people at large and by the politicians of the non-political character of administrative offices (p. 7). Likewise the only satisfactory solution of the problem of the abuse of the removing power is the development of a public opinion strong enough to force a change in the present system of appointments (p. 15). The author's discussion of the administrative activities of the president and the law governing them is clear and scholarly and affords little occasion for criticism. The same may be said of his treatment of the part played by the Congress and the cabinet in administration. In his account of the organization and activities of the executive departments he occasionally falls into slight errors, inevitable no doubt in a work of this character, and it may be invidious to call attention to them in the review of a book in other respects possessing so many excellent features. Nevertheless to mention some of them: the work of the department of state is divided among eight, not six, bureaus (p. 78). To the list given in the text should be added the bureaus of passports and trade relations. The Prussian court referred to on p. 121 is the *Oberrechnungskammer* instead of the *Oberkammergericht*. The date of the timber culture act was 1878 instead of 1873 (p. 193). To the list of Porto Rican officials appointed by the president (p. 218) should be added an attorney-general and a treasurer. The entomological work of the department of agriculture is now carried on by a bureau instead of a division (p. 228). In reviewing the legislation with regard to Indian affairs (p. 201) mention might be made of the act of 1890 extending the naturalization laws to Indians of the Indian Territory (see Van

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Dyne, *Citizenship*, p. 237). Some account ought to be given of the local administration of the pension system. Nothing is said of the part played by the boards of examining surgeons, of which there are more than 1300 in the several states, nor of the designated single surgeons and specialists, of whom there are over three hundred throughout the country. In the account of the administration of the patent office an erroneous impression is given by the statement that "a fee of $35 must be paid by the applicant" (p. 211). If the patent is disallowed the fee is only $15. The decision of the commissioner is not final in cases of application for a patent (p. 211); an appeal lies from his decision to the court of appeals of the District of Columbia. The organization and activities of the public health and marine hospital service are not satisfactorily explained (p. 129). No mention is made of the national quarantine stations, while the references to the interstate quarantine law of 1890 and the maritime quarantine act of 1893 are too brief and vague to be of much value. More important still, from an administrative point of view, no idea is given of the peculiar relation between the state and national systems of quarantine (see Revised Statutes, sec. 4792, also sec. 3, act of Feb. 15, 1893) as a result of which the efficiency of the national service is greatly impaired (see Walter Wyman, *Quarantine and Commerce*, pp. 13, 14). Nothing is said of the extent to which state administration of maritime quarantine has been voluntarily surrendered to the national government in pursuance of the act of 1893 nor of the additional duties imposed upon the service by the act of 1902 to regulate interstate traffic in serums, viruses and toxins. The official title of the head of the service is "supervising surgeon general" (p. 129). The marine hospitals are no longer supported by a tax on the wages of seamen. Since 1884 the expense of maintenance has been borne by the United States out of the receipts from a tonnage duty. Criticism of a similar character might be made of the author's review of immigration legislation and administration (pp. 245, 246). No mention is made of the immigration act of 1903, nor are anarchists, professional beggars and persons whose passage is paid by others mentioned in his list of excluded classes (p. 245). There is a bare reference to the Chinese exclusion laws of 1882 and 1888 but none to the more recent act of 1902 nor to the administration of the law. Concerning the administration of the general immigration acts too little is said, no mention being made of the boards of special inquiry, of manifests, of detention, of deportation or the immigration inspection service in foreign ports. Possibly the value of the bibliographies might be slightly improved by the addition of the following

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references: chapter i, V. T. Wilson, *Federal Aid in Domestic Disturbances* and D. Y. Thomas, *Military Government of Newly Acquired Territory;* chapter vi: *The American Passport* (Government Printing Office, 1898); chapter xii: R. Weil, *Legal Status of the Indian* and E. Womack, *History and Business Methods of the Department of the Interior;* chapter xv: *Organization of the Department of Agriculture* (Washington, 1904); chapter xvi: Hillyer, *Organization and Law of the Department of Commerce and Labor* (Washington, 1904).

J. W. GARNER.

UNIVERSITY OF ILLINOIS.

Proceedings of the American Political Science Association, held at Chicago, December 28–30, 1904. Vol. I.—249 pp.

The opening paper of these proceedings, the address of the president, Professor Frank J. Goodnow, on "The Work of the American Political Science Association," is of particular interest as a preliminary survey of the association's field of activity. In a brief analysis the several divisions of its work are thoroughly correlated. The object of study is, in brief, the state. To the realization of the state will, its formation, expression and execution are necessary. The formation and expression of the state will involve the study of political theory, of constitutional law and of extra-legal custom and organization, such as nomination methods and the political party. The content of the state will is ordinarily considered to be the law, both public and private. A convincing argument for the inclusion of much of the private law is incorporated, and a knowledge of the public law is pronounced essential to any one in any sense a student of political science. Finally the execution of the state will, a subject which has never received the attention it deserves, involves "the ascertainment and application of correct principles of administration," and thus, primarily, the study of administrative law.

Many of the subjects thus enumerated in the president's address are represented in the papers which follow. The first session was devoted largely to international law. The subjects were of timely interest. Professor Theodore S. Woolsey, discussing "The Beginnings of War," distinguished sharply the beginnings from the declaration of war. The declaration of war, when subsequent to its commencement, is for domestic purposes, and when omitted it is with no intent to deceive, but as a mere superfluity. The actual moment at which war begins was discussed at some length. Professor George G. Wilson's address on "Unneutral Service" emphasized the importance of clear

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recognition of the category of unneutral service. It would remove the confusion resulting from the forced interpretation of certain principles of international law, particularly the law of contraband. Speaking on the subject "Contraband of War," Professor Harry Pratt Judson assumed an advanced position in argument for an extension of neutral obligation. Prohibition by municipal law of trade with a belligerent in certain articles which are always contraband, such as artillery, small arms and ammunition, was strongly advocated.

The papers on colonial policy and administration, considered together, reflect the fickleness and unsettled condition of public and expert opinion on the Philippine problems. Professor Bernard Moses' discussion of "Colonial Policy with Reference to the Philippines," emphasized the debt to Spain for the earlier civilization of the islands, and asserted the advisability of building on the Spanish foundations rather than those of the Dutch in Java or the British in India. The paper is valuable as an instructive statement of present and past conditions in the islands. Professor Paul S. Reinsch, unlike his predecessor, strongly criticized the Philippine policy. Under the heading "Colonial Autonomy, with special reference to the Philippine Islands," he attacked the land, labor and tax systems, the system of general administration, and, above all, the system of "literary" education, for which he would substitute manual and technical training. In the light of this and more recent testimony, Professor Moses' characterization of the labor problem may be extended to the general question of Philippine policy. It is a "rough road of diverse opinions."

The centralization of state administration was discussed by Dr. Charles V. Chapin and Professor John A. Fairlie. The former submitted a paper on "State Boards of Health," the latter spoke on "State Supervision of Local Finance." In both directions there is a decided tendency toward centralization, a tendency strongly defended. In contrast with these papers was that read by Professor L. S. Rowe on the "Reorganization of Government in Cuba," in which he spoke of the great opposition to centralization in Cuba, and the difficulties resulting therefrom. Professor William A. Schaper, in discussing these papers, expressed the opinion that a policy of centralization, without sufficient popular education in government, might prove dangerous. "The Relation of the Executive to the Legislative Authority," by Professor James T. Young, may be appropriately considered here, because of its administrative significance, though it appears just after the president's address. This discussion is of singular suggestiveness and value. It emphasizes some of the broader causes of executive supremacy in the

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United States—causes which have been almost forgotten in the detail of the subject. To some it will seem that he barely escapes falling into grievous error, in that he comes close to a recognition of an executive supplementary ordinance power—a position, however, to which, and even beyond which, students of administrative law will possibly have to follow him before long.

The concluding session, held with the American Economic Association, was devoted to industrial combinations, railroad rate legislation and railroad taxation. Mr. Edward B. Whitney, in a paper on "Government Interference with Industrial Combinations," considered, among other things, the virtues of a national incorporation law and national control through creation of the jobbing corporation. The latter device was disapproved because it would increase centralization, whereas the "spawning of corporations for export" is neither natural nor necessary to the regulation of the District of Columbia. The latter part of the paper indorsed the Interstate Commerce Commission as the proper "dispensing body," if any governmental body is to be given the power to discriminate between—and permit certain—contracts or combinations in restraint of trade. Chairman Martin A. Knapp, of the Interstate Commerce Commission, in an address on "The Regulation of Railroad Rates," distinguished sharply the remedies for rebates and discriminations in the published tariffs. There seems to be an increasing tendency on the part of the commission to relegate the former to the courts. Mr. Knapp's arguments for a government rate-making power and against the requirement of competition in transportation were sustained by most of those who discussed the paper. Professor W. Z. Ripley believed that pooling should be made not only legal but legally enforcible. President E. P. Ripley of the Atchison, Topeka & Santa Fé Railway Company contended that the commission should not be given the power to make a rate effective until disapproved by the court, because the railroad had no security against the individual pending adjudication, whereas the railroad itself could be made to give a bond. Mr. Horace White suggested that if the railroads could be compelled to do this, why not the shipper?

Professor Henry C. Adams discussed "Tendencies in Railroad Taxation." The absence of an independent system of railroad corporation taxation and the prevalence of the general property tax on railroads were remarked. It was contended that the proper system of taxation should give attention to surplus value. Surplus value is created by amalgamation and consolidation, density of traffic, organization and vitality. A portion of the surplus value is thus a direct contribution of

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the public. The general property tax makes no provision for the situation thus disclosed, assuming value to be homogeneous, which is not the case. The paper was discussed by Mr. William A. Baldwin, who departed from the text, however, and took up the tax situation in Michigan and Professor Adams' work there.

Possibly an interesting forecast of the future work of the association may be found in the incidental suggestions of the papers of this its first meeting. Professor Goodnow's suggestions for the indexing and digesting of administrative reports, Professor Fairlie's comment on the possibilities of the association as a clearing house for the reduction of the enormous waste in experimental legislation, and the consideration of a "Colonial Institute," were the most definite contributions of this nature. That the association has made good its claim to a separate existence is thoroughly demonstrated by the excellence of the work of the first meeting, and by the wide gap which its work has filled. Economics and politics miss their opportunity and shirk their chief responsibility if they fail to minister to the state itself. An institution which shall invite their theories and devices, but so far as possible test them thoroughly by the weights and measures of the public and the private law, stands in a position to do much in behalf of the public welfare.

HAROLD M. BOWMAN.

DARTMOUTH COLLEGE.

L'État moderne et son droit. Par GEORG JELLINEK. Traduit de l'Allemand et annoté par GEORGES FARDIS. Première partie: Doctrine général de l'État. Livre I: Introduction a la doctrine de l'État. Paris, Albert Fontemoing, 1904.—viii, 223 pp.

Professor Jellinek some years ago, while exploring the world of political science, discovered America and wrote a very interesting little book about it—*The Declaration of the Rights of Man* (see this QUARTERLY, vol. xi, p. 582). The denizens of his new-found region are now enabled, through the kindness of M. Fardis, his authorized French translator, to become acquainted with his systematic philosophy of the state. The present volume contains only one book of part i; the complete work is evidently to be another of those imposing aggregations of *Bände, Teilen, Bücher* and *Abteilungen* without which no German professor's career is complete. In the four chapters here presented the author explains the scope of his work. He is to treat of the doctrine of the state, and this topic he here discusses from the point of view of its object, its method, its history and its relation with the sci-

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ences in general. Whether or not the reader approves of the limitations which the author imposes upon himself, there can be no room for doubt as to the definiteness of the field which is marked out. Professor Jellinek's purpose is to treat of the state, not as a theological, an ethical, a historical, a social or even a political, but as a legal or juridical, entity. He conceives it as "the public power (*puissance publique*) in its manifold forms" (p. 127); and the task of the science of the state is "to study in their fundamental principles the relations (*rapports*) of the public power—to examine the conditions in which they are manifested, their end and their effect" (p. 127).

Jellinek thus takes his place with those philosophers who think of the state as solely an organization for the expression and enforcement of a supreme corporate will in a given society. Its characteristic quality is sovereignty and its sphere of action is public law. Since this conception of the state is distinctively modern in origin, the theme of his philosophy is properly "the modern state and its law." He disclaims all pretension to "political science" as his subject. Under that head are included very many matters with which he has no intention of dealing. His science is that of the state (*Staat*), not of the πόλις. His adjective is probably *staatlich*, since M. Fardis uses *étatique;* some day perhaps some bold scientific innovator will introduce "stately" or even "statish" to mark in English the fine shade which "political" does not distinguish.

There is no room to doubt that Jellinek is right in regarding "political science" as an inexact term and in maintaining that the plural form, "political sciences," alone corresponds to a fact. His own particular subject he considers one of these sciences, but he is far from insisting that it is the broadest or most important of them. His whole chapter on the relation of the doctrine of the state to other branches of knowledge is admirably conceived and is executed in a truly scientific spirit. Like all contemporary writers whose bent is primarily juristic he finds some difficulty in identifying and properly adjusting in his scheme the science of sociology. At best it seems to him rather too vague a concept to be particularly useful (p. 163); and in the great variety of ideas which those who call themselves sociologists put forth in regard to their own field, he finds little hope of the consensus necessary to a true science. In speaking of sociological science, he says, one is obliged to ask first not what is taught, but who teaches it (p. 120). Society, however, as distinct from the state, receives full discussion from Jellinek, and the reciprocal action and influence of social and "stately" forms and forces are very suggestively dealt with. Thus he touches upon

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many of the topics about which sociologists most do congregate—social ethics, public opinion, the family, associations, religion, political parties and the rest—but only to suggest the relation of those to the state proper, as he conceives it. From one familiar field of sociological investigation he dissociates himself frankly and completely: regarding the state as in the most exclusive sense human, he declines absolutely to look for information about it to the practices of bees and ants (p. 144). Even the institutions of primitive men have for him no instruction so far as his peculiar subject is concerned. He evidently regards with little confidence that use of the historical method in political science which breeds distrust of every institution that cannot be traced back to barbarous times. The adepts of that cult through which for a time the Aryans, the Teutons and the Anglo-Saxons played so large a part in systematic politics will find little of interest in Jellinek's work.

On one other point the author abandons a time-honored aspiration of political philosophy. The "nation" is to him an ideal that "has no external and objective reality" (p. 207). It is based on no ethnic, geographic, religious or moral fact. The consciousness of nationality is the product of a superior civilization, and means nothing more than the feeling common to the members of a politically organized community that it has, for some fortuitous and quite unpredictable reasons, different interests and a different destiny from other like communities. This conception of nationality, it may safely be conjectured, has before it a more fruitful scientific future than that by which nineteenth-century philosophy sought to endow with historic justice and moral validity certain manifestations of an elemental lust for power.

WM. A. DUNNING.

The Progress of the German Working Classes in the Last Quarter of a Century. By W. J. ASHLEY. London, New York and Bombay, Longmans, Green and Co., 1904.—xiii, 160 pp.

Professor Ashley's little book will probably produce a curiously mixed impression upon its American readers. In its better aspect, it impresses one as a decidedly helpful and welcome statistical handbook, covering the conditions of life and employment of the German working classes in the last few decades. It is prepared with critical discrimination and discusses in a succinct way the more important statistical indices of well-being—wages, hours of labor, housing, duration of life, savings, consumption, pauperism, *etc.* It is not as thoroughgoing as one might wish, but on the other hand it is rich in references to authoritative Ger-

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man sources, and it purports only to be a convenient collection of evidence upon the subject indicated in the title.

Unfortunately, however, the book is permeated with a curious logical bias which seriously impairs its usefulness to the scientific student. The reader is surprised to learn from the preface that the main object of the book is "to clear the air in the [British] fiscal controversy." The staple argument of the British free-trader, it would appear, is misrepresentation of German conditions and German progress. Whereupon Professor Ashley rescues protection by rehabilitating the horrible example. Of course he has no difficulty in proving his point. German progress in the past quarter century is incontestable. But the work of rescue is prosecuted so vigorously that the scientific development of the subject suffers. The whole first chapter—one-third of the book—is given over to a dialectical discussion of the futility and perplexity of arguments from comparison. Moreover, one would scarcely infer from the book, that Germany has ever experienced anything but unalloyed prosperity. As attorney for the defense, Professor Ashley seems to assume that it is none of his business to bolster up his opponent's case.

From the standpoint of the British tariff controversy, the whole discussion about German progress is beside the point. The British free-trader who is silly enough to rest his case against protection upon the alleged inferiority of the German "standard of comfort," must lose it when the admitted superiority of the American standard is pointed out. Worst of all, Professor Ashley is perfectly aware of the futility of all this pother. He assures us again and again both that German progress may have been due to other factors than the protective system, and that even if protection has been good for Germany, this furnishes no proof that it would be good for Great Britain.

The book contains five chapters, the first devoted to brief comparisons between English and German conditions, the second to the progress of the agricultural working classes, the third to progress among the work-people in manufactures, the fourth to various criteria of growing prosperity, and the fifth to the depression of 1901–02 and its disappearance. Except for its curious controversial twist, which seems to an American characteristically and amusingly English, the book will do nothing to impair Professor Ashley's well-earned reputation for careful, trustworthy, scientific work.

T. S. Adams.

University of Wisconsin.

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Schutzzoll und Freihandel: die Voraussetzungen und Grenzen ihrer Berechtigung. Von RICHARD SCHÜLLER. Wien, F. Tempsky; Leipzig, G. Freytag, 1905.—304 pp.

Das neue deutsche Zolltarifrecht. Von ERICH TRAUTVETTER. Berlin, Verlag von Julius Springer, 1905.—232 pp.

Facts and Figures: The Basis of Economic Science. By EDWARD ATKINSON. Boston and New York, Houghton, Mifflin and Company, 1904.—202 pp.

Recent English and American literature on international trade, although rich in new facts of interest, has, from the point of view of theory, been singularly barren. Since the discussion over a decade ago of the bearing of the principle of increasing returns upon the policy of protection, theoretical study of the problem of foreign trade appears to have been almost at a standstill. The reason for this is not hard to find. Practical discussion in England and America, as in the first half of the nineteenth century, has centered in the expediency or inexpediency of protective duties in general. The field which would seem to promise the highest returns—the investigation of the theoretical possibilities of individual protective duties—has been neglected. The free trader has not cared to weaken his contention that all duties are bad by granting that some are less evil than others, nor has the protectionist been willing to concede that there are degrees in the beneficence of protection.

We should naturally expect that the attitude of continental economists of the present generation would be more favorable to detailed analysis of the protective system. Originally for the most part protectionists, they have been compelled by the exigencies of continental commercial policy to contemplate the reduction of certain duties, held to be advantageous to domestic industry, in order to secure from foreign nations reciprocal concessions demanded by exporting interests. Common sense would suggest that in some cases a reduction of duty would seriously impair domestic production, while in other cases an equal reduction would affect production little. In negotiating a commercial treaty the statesman should therefore give due weight to this consideration in order to minimize the cost at which reciprocal concessions may be secured.

It is with the object of determining the relation between production and particular protective duties that Dr. Schüller has written his monograph on *Schutzzoll und Freihandel.* He attempts to establish the fact that practically all industries operate under the law of diminishing re-

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turns. Accordingly, in the case of almost all commodities, to stimulate domestic production is to enhance marginal cost and hence to increase the price to the consumer. In some industries, however, the difference between the cost of the least efficient and the cost of the most efficient producer is slight. In such cases an increase in duty would probably greatly stimulate production at a slight increase in cost; and the removal of an existing duty would result in a vast decline in domestic industry. Where differences in cost of production are great, a new duty would raise prices without materially increasing production; and a reduction in duty would curtail the domestic product only slightly. Thus the high duties on meat products in the new German tariff will increase production very little, but will raise prices considerably. In this respect the German tariff violates the principles of sound commercial policy.

While Dr. Schüller concerns himself mainly with the effect of duties upon production, he is by no means blind to their effect upon the distribution of wealth. Duties on products the supply of which can be increased only at a decided increase in cost tend to give an undue share of the social income to the landowner—a point not quite so new as the author seems to regard it, since it was pretty fully exploited in Professor Patten's *Economic Basis of Protection*. This fact is an additional reason for limiting the protection given to such industries, and for sacrificing existing duties of this nature in the negotiation of commercial treaties.

The reader can hardly fail to agree with Dr. Schüller's view that duties which increase production only slightly at a great increase in price ought to be sacrificed at the earliest opportunity. But the author's argument that duties which greatly increase the production of a commodity at a slight increase in cost are economically advantageous, hardly carries conviction. He points out that there are in every community productive forces not fully utilized—waste land, misfit laborers, idle machinery. He does not, however, show how any system of commercial policy can make the utilization of such resources profitable to society as a whole. He dwells upon the possibility that foreign capital and labor may be drawn into a country by a duty. But if the duty is a burden upon other industries—a point scarcely touched upon—it is quite possible that an equal amount of capital and labor may emigrate. In short, Dr. Schüller has contributed nothing to the general question of the expediency or inexpediency of protection.

The book is on the whole closely reasoned and inspires the hope that German writers on international trade will in the future have less to say of the "instinktiven Wirkungen der historisch entwickelten nationalen Individualitäten," and will devote themselves more generally to intelligible economic analysis.

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Dr. Trautvetter's work is in the main a study of the administrative features of the new German tariff law, and of earlier enactments, so far as these remain in force. It is of value chiefly to those who expect to hold office in the German customs service, although persons engaged in the importation of goods into Germany will find many valuable suggestions in it. Furthermore, it possesses a certain value for students of commercial policy since it explains many details of the new German tariff that at first sight appear quite anomalous.

Edward Atkinson's *Facts and Figures* consists of four papers: "A True Policy of Protection," "The Tendency to Individualism in Manufactures," an "Address to the American Free Trade League" and "The Cost of War and Warfare." The book is mainly devoted to arguments against protection, although many other topics—imperialism, taxation, *etc.*—are discussed. The book is old-fashioned in its admiration of the competitive society that so many of the younger economists regard as anarchic; in its insistence upon a relation between freedom of trade and individual liberty; in its courteous treatment of writers whose doctrines its author abhors. There is one point dwelt upon at great length, originally advanced some years ago by the author in an article in the *Quarterly Journal of Economics* and accepted by not a few economists, which perhaps deserve notice here. From an analysis of the census statistics of occupations Mr. Atkinson concludes that out of over 29,000,000 persons engaged in gainful occupations, not more than 4,000,000—and these by no means the best paid—are affected directly or indirectly by the tariff. One who holds the protectionist view would hardly consider that the classes which are out of reach of foreign competition have no concern in the tariff. The building trades, for example, rely for their prosperity upon the general wealth of the community; so also do persons engaged in domestic service. Indeed, so intimate are the relations of the various industrial classes that no statistical study of the numbers affected by protection can be of much value.

A. S. JOHNSON.

Modern Industrialism. BY FRANK L. MCVEY, Ph. D. New York, Appleton & Co., 1904.—xiii, 300 pp.

Mr. McVey's compact little volume on *Modern Industrialism* will prove interesting and instructive to the general reader and indispensable, I should say, to the teacher of economics. It is remarkable how much good history, impartial statistics and sound philosophy the author has included within the compass of this small octavo of 300 pages. The material is well divided and admirably arranged. After a succinct

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survey of modern industrialism three chapters follow on "Industrial Changes in England since 1760," "Industrial Evolution of America," and "The Rise of Germany." Each of the three countries chosen is characterized by a suggestive sentence. Of England it is said:

> She has passed from an aristocracy to an oligarchy, safeguarded by a democracy, from a domestic system of manufactures to the factory system, from partnership organization to corporation and combination, and finally from a *laissez-faire* conception of government to one of regulation [p. 274].

Concerning America the author remarks:

> A plutocracy has gradually unfolded itself with its baneful influence on law; misrule, political corruption and irresponsibility have grown with the complicated organism. The United States is a land of great resources, of democracy, of party government, of commercial development and of serious problems aggravated by the inadequacy of the governing forces [p. 275].

Of Germany he says: "The economic edifice of Teutonic production rests upon the German business man and workman, the scientist and the state" (p. 77).

This historical part is succeeded by several chapters on industry. In the first of these, dealing with the extractive industries, Mr. McVey exhibits the influences of the law of diminishing returns and shows the effects of monopoly control of natural resources; the transportation question is considered concisely in the second chapter; in the third, modern manufacture is successfully characterized under the factory system, specialization, standardization and a number of other pertinent paragraphs. The concluding chapters of this second part deal with the forms of industrial organization—the partnership, the joint-stock company, the corporation, the cartel, promoters, underwriters, trade unions, *etc.*—and with commercial institutions—banks, clearing-houses, exchanges and the various instruments of trade.

Having traced the historical development of industry and considered the existing facts of industrialism, Mr. McVey is in a position in the last part of his book, on administration, to express his opinion upon the fundamental problems involved in the individualistic and socialistic systems of society. Generally speaking, he is inclined toward the socialistic side, that is, he frankly abandons the classic *laissez-faire* doctrine and argues for interference, regulation and government ownership as means adapted to meet the requirements of different countries and particular cases coming up in each. "Each land," he says "has its own problem, and in so far as the conditions are the same,

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light may be thrown upon it by the experience of others." "In England a better industrial organization is needed; in America a more efficient political organization and the subordination of the industrial to it; and in Germany a more widely developed industrial organization and larger political and social functions for the people." As for the United States in particular, "it is clearly demonstrated that we must have stronger political institutions, a sense of duty, and a more enlightened public opinion before we can talk about the enlargement of duties and functions of the state in the management and conduct of industry" (pp. 290, 291).

On the whole Mr. McVey's book is well written; it is certainly clear and concise and the essential is always emphasized. The English is explicit in most places, though some sentences are obscure, and the style is marred by a long succession of split infinitives. Attention should be called to one error of fact. The author states: "With the exception of a few grapes, grasses and foliage plants there were no native economic plants" in the United States (p. 91); and "every crop now grown on a commercial scale was introduced from foreign countries" (p. 91). Payne in his *History of the New World* gives an admirable account of the economic plants indigenous to America, placing Indian corn at the head of his list. From this it will be seen that there are a number of very important crops now grown on a commercial scale in the United States which were not imported from "foreign countries."

LINDLEY M. KEASBEY.

BRYN MAWR, PA.

Industrial Organization in the Sixteenth and Seventeenth Centuries. By GEORGE UNWIN. Oxford, Clarendon Press, 1904.—8vo., pp. vii., 277.

The author of this book has accepted the theories of industrial evolution expounded by Schmoller and Bücher, and makes use of them to explain the course of the transitions that occurred in "England as representative of West European civilization." Wishing "to bridge over the gap . . . in industrial history between mediæval England and England of the eighteenth century," he states it as the purpose of his book, "to give some account of the rise of the domestic or commission system . . . as displacing the handicraft system of the town." This statement of purpose is somewhat misleading; for the reader feels that the author has really put himself to the task of tracing the pedigree of modern industrial classes and of demonstrating that the differentiation

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of social classes has been due to the division of labor. In the introduction we are furnished with a diagram of this pedigree, which serves in some sort as a plan of the arrangement of the book. The last chapter is devoted to the antecedents of the trade union, an organization that, together with the employers association "and many other existing forms of social organization," finds an "ancestor" in the mediæval craft gild. A purpose thus vaguely conceived and inadequately stated mars the unity of the book. It also hampers the author in his presentation of facts and confuses the reader. It is by taking the book, therefore, not as a whole but in sections that we find its real value.

The first half of the book is devoted to the disintegration of the craft gild and the rise of the livery company; and the author shows how, in spite of their difference in form and function, the latter could grow out of the former. He then gives a good description, based on unprinted materials, of the constitution and working of a typical London company in the time of Elizabeth. A symptom of the disintegration of this type during the next generation he finds in the efforts of the small masters toward independent organization. He shows how this plan, forced upon the industrial class by the oppressive policy of the merchant capitalists, succeeded with the assistance of the royal power; and thus he accounts for the Stuart corporations of small masters. He somewhat impairs the clearness of his presentation of the movement by regarding the efforts of the small masters to protect themselves by association as a link to connect the mediæval craft gild with the modern trade union. This connection is not seen, it is true, in the results of the efforts, since the organizations later became representative of the large manufacturers, but rather, so the author thinks, in their intention, which was to preserve the status of the small master and protect his independence. Having shown the origin of these corporations, the author deals with their inner history during the early stage of their existence. He shows how some of them made experiments with joint stock enterprise and failed for want of the legal machinery and business organization necessary to secure the responsible administration of collective capital; and how others, seeking to exploit the monopoly secured by their charters through an alliance with individual capitalists, failed because the capitalist was not inclined to maintain the best industrial conditions. At this point he interpolates, for no apparent reason, a chapter on protectionism under James I. When he resumes his argument it is to show that, while the small masters' organizations served as training grounds for the modern "captain of industry," their influence on the rank and file of workmen was still more educational, and that out of their ruins the trade unions were built.

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The growth of industrial capital made possible the organization of manufacturing on a large scale and the small masters were reduced to the condition of wage-earners. These reduced masters along with the journeymen formed a new class conscious of its special interests, and trade unions were the result.

THOMAS WALKER PAGE.

UNIVERSITY OF CALIFORNIA.

The King's Household in England before the Norman Conquest. By LAURENCE MARCELLUS LARSON. Madison, Wisconsin, 1904.—152 pp.

Mr. Larson prefaces his useful essay with a discussion of his sources and authorities which is not particularly valuable or illuminating. To tell again what an ordinary student of English history ought to know is certainly a work of supererogation even if it does meet some imaginary requirements of the doctoral dissertation. The notes are not based upon an examination of manuscript sources, and some of the most important critical commentaries are not utilized. Throughout the tract there are evidences that the complexity of problems in paleography and diplomatics is not appreciated. For instance, the first charter in Kemble's collection is rejected on linguistic grounds, when a slight knowledge of the manuscript from which the document is taken would have revealed the complete insufficiency of such a test. Two pages are employed in arriving at an unsatisfactory conclusion on the early Kentish laws which Liebermann definitely fixed in time and place some years ago.

Five chapters of the work are devoted to a discussion of the earl, gesith, thegn, secular dignitaries, chancery and king's priest. Here Mr. Larson has rendered a real service by giving in systematic form an account of related institutions which are discussed in a disconnected and often unsatisfactory fashion by other writers. His conclusions on most important points do not differ materially from views already accepted, but the value of the whole is enhanced by the wealth of illustrative detail brought together from the sources. What appears to be an important discovery, namely, that the royal seal was used in the tenth century, is really an error based upon a wrong interpretation of a source. The evidence cited in support of this conclusion is an extract from a document of Aethelred's reign: "Then sent the king his seal by Aelfhere the abbot to the gemot at Cwicelmeshlaewe." The Anglo-Saxon word which Mr. Larson translates as "seal" is "insegel," a term which means "writ" as well as "seal," and evidently is "writ" in this

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instance. (Thorpe, *Diplomatarium*, p. 288.) Because the Anglo-Saxon word for crown or its equivalent is *cynehelm*, we are informed that the inference is necessitated that the English queen as late as 1000 A. D. was not crowned. This is certainly a large inference to make from a mere linguistic interpretation, especially in view of the fact that there is positive evidence of the coronation of one queen in Anglo-Saxon times previous to this date (Kemble, ccxcix).

The last three chapters are employed in a discussion of Danish innovations, the lesser court officials, and the relation of English and continental developments. Here Norse sources are used with good effect. The author claims to have made out a case for the Norse origin of the staller's office, but his discussion bears rather upon the origin of the term than upon the origin of the functions of that officer. At all events it can scarcely be said that Mr. Larson has definitely settled the question. He admits (p. 142) that the staller may be of early Teutonic origin, and his argument rests partially on the silence of early Anglo-Saxon sources. The late organization of the Scandinavian royal household (p. 196) and comparative recency of Norse sources help to make the matter doubtful. As I read Dr. Stubbs' note on p. 383, volume i, it is the title "constable," not "staller," that is derived from *comes stabuli*. The discussion of the Danish royal guard is Mr. Larson's most important contribution; and it is to be hoped that he will use his knowledge of Danish materials in the further amplification of the present unsatisfactory accounts of Danish institutions in early England.

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RECORD OF POLITICAL EVENTS.

[From May 1 to November 7, 1905.]

I. INTERNATIONAL RELATIONS.

THE RUSSO-JAPANESE WAR: NAVAL AND MILITARY OPERATIONS.—During the early part of May, Admiral Rojestvensky cruised in and near Kamranh Bay where he was joined by Admiral Nebogatoff (see last RECORD, p. 351) on May 5. On May 14 the vessels started northward, passing through Ballintaog Channel. On the morning of May 27, the Japanese sighted the Russians drawing near Tsu Shima, and at about half-past one in the afternoon the battle was opened. At the outset the Russian fleet consisted of eleven battleships of varying sizes, three armored cruisers and six protected cruisers, eleven auxiliaries for scouting purposes and thirteen destroyers. The Japanese fleet consisted of six battleships, twenty-four cruisers, twenty destroyers, sixty-seven torpedo boats and forty armed auxiliaries. Before evening five Russian warships had been sunk. As darkness fell, Japanese torpedo boats attacked the almost disabled Russian fleet and dawn found only five remaining in fighting order; namely, the "Orel," the "Nikolai," two coast-defense ships and the "Izumrud." These were all captured later in the day with the exception of the "Izumrud," which escaped only to be run aground and blown up. The protected cruiser "Almaz" and three destroyers got through to Vladivostok and the protected cruisers "Aurora," "Oleg" and "Jemchug," under Admiral Enquist escaped to Manila. The request of the Russian admiral for permission to make repairs was denied by the order of President Roosevelt, on the ground that injuries received in battle might not properly be repaired in a neutral port. Accordingly the vessels were interned. Another Russian destroyer drifted into Shanghai harbor June 4. The aggregate number of officers and men of the Russian fleet was about 18,000, and of these but 1900 escaped. 14,000 went down with their ships and 3000, including Admirals Rojestvensky and Nebogatoff, were taken prisoners. The Japanese lost only three torpedo boats and about 800 men.—During the spring and summer the Russian and Japanese armies continued to gather reinforcements and strengthen their respective positions in Manchuria. In May, June and July desultory fighting was reported from time to time with small losses. On July 10 it was announced that Japanese troops had landed in **Sakhalin** and had occupied Korsakovsk with but little resistance from the small Russian garrison. The fort buildings were destroyed, the coast guns blown up, and the Russians retired northward. About five miles west of Dalineye, the Russians, in spite of a stout resistance, were routed on July 12. Fighting, sometimes rather heavy, continued, however, in northern as

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well as southern Sakhalin. Japan's military administration was proclaimed on July 30. On the next day, the Russian military governor, Gen. Liapunoff, and about 70 officers and 3200 privates surrendered. On August 1, the Russian department of posts and telegraphs announced the closure of all offices in Sakhalin, thus virtually recognizing the loss of the island.—At the opening of the peace negotiations, no formal armistice was arranged in the field, but there was a general cessation of hostilities. On August 31, however, an armistice was signed, in which it was provided that no more troops should be sent to the front and that the two armies should retire to Harbin and Mukden respectively, as soon as the peace was signed. On September 13 Generals Ovanosky and Tukushima signed a general armistice, which went into effect on September 16.

RUSSO-JAPANESE WAR: INTERNATIONAL INCIDENTS.—The subject of French neutrality (see last RECORD, p. 351) assumed a somewhat serious aspect in May. On the tenth of the month, Mr. Balfour was questioned in the House of Commons as to the probability of Great Britain's becoming involved in the dispute. In reply he produced a communication from the French government explaining the situation and disclaiming any knowledge of the movements of Rojestvensky or Nebogatoff. The departure of the Russian fleet from French territorial waters ended the affair. —On July 23, the Russian and German emperors, while cruising in their yachts in the Gulf of Finland, held interviews. It was generally assumed that the meeting had been arranged in order to discuss the internal affairs of Russia and if possible to devise a method by which peace negotiations might be opened.—An understanding was reached in June between Great Britain and Russia over the matter of the sinking of the British steamer "Ikhona" by a Russian auxiliary cruiser. Great Britain demanded £250,000 from Russia with a pledge to respect British shipping in the future.—In August, September and October five American vessels, the "Barracouta," the "Centennial," the "Victoria," the "Australia" and the "Montara," bound for Russian Asiatic ports, were seized by the Japanese.

THE RUSSO-JAPANESE TREATY OF PEACE.—Following the disastrous blow to the naval power of Russia in the sea of Japan, President Roosevelt, acting under clause 3 of the Hague Convention, took measures which proved successful in bringing about peace. After sounding the Russian and Japanese representatives at Washington and ascertaining that his efforts would be supported by the other neutral powers most interested, notes were dispatched on June 8 to the czar and to the mikado urging that the belligerent states open direct negotiations with each other. It was proposed in the notes that there should be a meeting of Russian and Japanese plenipotentiaries or delegates without any intermediary; and the president's services were offered, if desired, for the arrangement of the time and place of meeting. Within five days the president was assured that both parties were willing with certain reservations to act on his suggestion. In July it

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was announced that the envoys would meet on American soil in the early part of August and that their negotiations would be conducted at the Portsmouth Navy Yard. The envoys finally chosen by Russia were Count Sergius Witte, the former minister of finance, and Baron Rosen. Japan selected as her representatives Baron Komura and Minister Takahira. The envoys were formally introduced to each other by President Roosevelt on August 5 on board the "Mayflower" at anchor off Oyster Bay. They immediately started for Portsmouth, where the first session of the peace conference was held August 9. On the following day, Baron Komura submitted the Japanese terms of peace. They included the evacuation of Manchuria, the recognition of Japanese supremacy in Korea, the cession of Sakhalin, the payment of an indemnity and the surrender of the interned warships. The Russian reply, made on August 12, declared that the czar's government would not agree to pay any indemnity nor to surrender any soil regarded as Russian. The demands of Japan were then taken up point by point and discussed at length. On August 29 the Japanese representatives abandoned the demands which had proved unacceptable, and agreement was reached on all points. On September 5, the treaty of Portsmouth was signed. Its provisions were in substance as follows: reëstablishment of peace and amity; recognition of Japanese influence as paramount in Korea; Japanese and Russian evacuation of Manchuria, except the territory affected by the lease of the Liaotung peninsula; unobstructed development of Manchuria by China; transfer to Japan, with the consent of China, of the lease of Port Arthur, Talienwan and adjacent territory and territorial waters; cession to Japan, with the consent of China, of the Chang-chun-fu, Kwang-chang-tse and Port Arthur railway; regulation of the respective railway interests in Manchuria; cession to Japan of the southern portion of Sakhalin and the adjacent islands with provision against fortifications in the island by either party; restoration, pending new arrangements, of the former commercial treaty; exchange of prisoners and payment of maintenance charges by both parties; and finally provisions for the gradual withdrawal of troops and for the appointment of delimitation commissions. The treaty was signed by the mikado and the czar on October 14 and the exchange of ratifications was formally announced on October 15.

OTHER ASIATIC RELATIONS.—A new **Anglo-Japanese treaty** was signed in London on August 12, establishing a full alliance for offensive and defensive purposes. India is included in the area covered by its operations. The brief document of eight articles was accompanied by notes to the Russian and French governments stating that the alliance was not intended as a menace but as a guarantee of peace and prosperity in the Far East, the open-door policy being thus assured.—**The Boxer indemnity** question was settled satisfactorily on July 2, when all the powers signed the note accepting the proposals of China to regard the indemnity as a gold rather than a silver debt.—Early in the summer it was reported that the Chinese, exasperated by the harsh application of the American exclusion laws (see

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UNITED STATES, THE ADMINISTRATION, *infra*), were organizing a **boycott against American goods**. At Shanghai the Chinese trade guilds carried on a vigorous agitation against the purchase of American goods, and in July it was reported that American trade in that city was at a standstill and that it was seriously affected in other Chinese cities. After representations had been made by the American government, the Chinese government issued an edict, August 31, ordering the boycott to cease. The Chinese merchants nevertheless refrained from handling American goods. Early in October it was reported that the Chinese merchants had decided to suspend the boycott. On October 24 a Chinese mob attacked the American Presbyterian mission at Lienchow and killed five of the missionaries. The occasion of the outrage appears to have been interference on the part of the missionaries with native customs; although it is reported that the anti-American sentiment aroused by the boycott was the indirect cause. An edict was immediately issued by the Chinese emperor ordering the viceroy of Canton to inflict exemplary punishment upon the offenders and to make full reparation.—On August 29 the Hankow-Canton railway concession (see last RECORD, p. 353) was sold to the Chinese government for $7,000,000, a sum covering the expenses that had been incurred by the American owners together with a reasonable profit. It was reported that the sale of the road was vigorously opposed by President Roosevelt because of its great commercial importance.—In May a **Siamese delimitation committee** under the king's orders accepted France's proposition for an extension of French borders. The people of the ceded district were given one year in which to adopt French nationality.—On June 14 M. Pokotiloff, the new Russian minister, reached Urga and immediately after his arrival called on the **dalai lama** with presents from the czar. The dalai lama remained at Urga, on pretext of illness, awaiting the results of the Russian minister's promised efforts on his behalf in China. (See last RECORD, p. 353.)—The treaty between the ameer of **Afghanistan** and Great Britain, signed March 21 at Kabul (see last RECORD, p. 353), was published in May. It renewed the engagements entered into between the father of the present ameer and Great Britain.—The agreement fixing the boundary of the Aden Hinterland frontier from the river Bana to Sheik Murad, on the gulf of Aden, was signed the first of May by the Ottoman and British commissioners. (See last RECORD, p. 354.)—Despite Russia's war activities, the government pushed forward its railway construction in **southwestern Asia**. A line was built over 1000 miles long across the steppes within 430 miles of the Persian Gulf to the very border of British India. Plans were laid to connect this with the transcontinental system 2000 miles to the north. This activity aroused attention in Great Britain, and Mr. Balfour in a number of addresses discussed the dangers from Russian aggression on the Indian frontiers.

INTERNATIONAL RELATIONS IN AFRICA.—The strength of the Anglo-French entente was shown during the summer in **Morocco**. (See last RECORD, p. 354.) In an official declaration made by the British min-

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ister to Morocco May 1, he stated that the object of his impending visit to Fez was to support French policy in Morocco, since the French proposition submitted to the sultan was strictly in accord with the spirit of the Anglo-French agreement. The details of the French proposals were announced on May 12. On May 28 they were rejected by the sultan on the ground that they were incompatible with existing treaties. On June 1 the sultan asked the powers to organize a conference at Tangier for the purpose of discussing the proposed reforms. The majority of the powers accepted on condition that the program be submitted to them in advance. On June 23 France sent a note to Germany declaring that she could not agree to the conference without a guarantee against any attempt to revise the agreements with Great Britain and Spain. The German reply refused to limit the scope of the conference but stated that Germany recognized the special position of France in Morocco and would not interfere in agreements between France and other powers. France immediately withdrew her objections, and the program for the conference was drawn up August 1 by France and submitted to Germany on August 2. On the refusal of Germany to accept this program there followed a further exchange of notes until a compromise was reached on September 28. The program thus arranged includes the organization of the police, the repression of contraband arms, financial reforms through a state bank, reorganization of the revenue system and the treatment to be accorded to the commerce of the various nations. It also contained specifications concerning the German loan, but the Algerian frontier question was omitted. The program was accepted by the sultan and the conference will take place in November at Algeciras. There was some disorder and brigandage in Morocco during the summer and autumn. The arrest of a French Algerian subject led to difficulties between France and the sultan which were finally adjusted by the release of the prisoner and the payment of an indemnity by Morocco.

EUROPEAN INTERNATIONAL RELATIONS.—The Anglo-French entente was effusively demonstrated during the summer. On July 10, a British squadron visited Brest from which port the officers proceeded to Paris. The papers of both countries teemed with eulogies, and M. Delcassé and other officials emphasized the community of educational, industrial and commercial interests between the two countries. The first week in August the French fleet paid a return visit, on which occasion official London bestowed every attention upon its guests.—**Anglo-German relations** were less satisfactory. After his interview with the czar (see RUSSO-JAPANESE WAR, INTERNATIONAL INCIDENTS) the German emperor proceeded to Swedish waters to visit King Christian of Denmark. On July 15, King Oscar and Crown Prince Gustavus Adolphus of Sweden visited the emperor and his chancellor, Prince von Bülow, on board the imperial yacht. This interview was followed by the announcement that the German fleet would soon visit Sweden. The British government immediately gave forth the information that its Channel fleet would cruise in the Baltic the last of August.

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As it has been years since a British fleet has appeared in that sea, it was generally believed that an effort was being made by Great Britain to counteract the preponderance of German influence in Scandinavian politics. This opinion was strengthened when the British admiralty declared that work on the Chatham dockyards would be transferred to the new naval base at Rosyth, Firth of Forth, Scotland. On August, the emperor announced his intention of supporting the candidacy of Prince Charles of Denmark for the throne of Norway, a support which he had hitherto withheld. This news was welcomed in Great Britain as a victory for British interests, and the press assumed a milder tone toward Germany. On August 20, the Channel fleet visited Swinemünde, and all the courtesies of naval intercourse were punctiliously observed by the British and German squadrons.—On June 15, the marriage of Prince Gustavus Adolphus of Sweden and Princess Margaret of Connaught took place at Windsor.—The opening of negotiations for an **Anglo-Russian** understanding was reported the last of October.—In the early summer France enlarged her territory by an exchange with **Belgium**, giving La Neuville-aux-Tourneurs and receiving Riezes in compensation. In September, an agreement was reached between Belgium and Prussia for a cession to Belgium of the neutral territory of Moresnet in exchange for a strip of land adjoining the town of Eupen in Prussia, eleven miles from Aix-la-Chapelle.—**Commercial treaties** were signed between Russia and France, Russia and Germany, Russia and Bulgaria, Italy and Austria-Hungary, England and Greece. On November 6 negotiations for a new commercial treaty between Germany and the United States were opened simultaneously at Washington and at Berlin.—Unrest continued to prevail in **the Near East.** After three futile notices to the porte in regard to Macedonian finances (see last RECORD, p. 354), the powers finally notified the sultan on August 26 of the appointment of financial delegates for Macedonia, but the porte absolutely refused to assent to the proposed scheme on the ground that it infringed its sovereign rights. On October 22, it was reported from Vienna that a joint ultimatum to the porte was in preparation and that the failure of this would lead to a joint naval demonstration. Early in November it was announced that the powers had agreed on a naval demonstration but had not arranged the details of the operation. A massacre by Turkish troops in the Macedonian village of Konopnitza in September led to a special investigation by the British government. Macedonian disorders led Bulgaria to protest to the powers that her frontiers were in danger. Greece and Rumania broke off diplomatic relations in September as a result of the Macedonian struggle for autonomy and the complaint on the part of Greece that her subjects were generally insecure in Rumania. On September 9, the minister of Greece left Rumania and the minister of Rumania was at once ordered to leave Athens. The porte took advantage of the mutiny in the Russian Black sea fleet to begin extensive fortifications on the Bosphorus. Russia protested against the move as incompatible with friendly relations.—The status of natural-

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ized American citizens in Turkey has again become the subject of diplomatic controversy, in the case of G. Vartanian, an American citizen, sentenced to death for murder. The porte has persisted in its refusal to permit the accused to be tried in the American consular court. On October 30, preparations for the execution of the condemned were stopped on the receipt of a note from the American legation stating that such an act would produce serious consequences.

AMERICAN INTERNATIONAL RELATIONS.—The annulment of the French Cable Company's contract (see last RECORD, p. 357) involved **Venezuela** in difficulties with France. The protest of M. Taigny, the French chargé d'affaires, against the closing of the company's offices, led President Castro in September to break off relations with him on the grounds of personal hostility but not as an affront to France. It was claimed by Venezuela that the French Cable Company had assisted the revolutionists. The relations of the United States to Venezuela led France to open, through M. Jusserand, a series of conferences with the state department at Washington with regard to a joint arrangement. France prepared at the same time for a naval demonstration against Venezuela. On October 21 it was announced through Secretary Root that France was willing to negotiate with Venezuela.—Early in May Mr. Russell, formerly minister to Colombia, was transferred to Venezuela, to take the post left vacant by Minister Bowen's recall. Mr. John Barrett, minister to Panama, was transferred to Colombia. The investigation of the charges brought by Mr. Bowen against Assistant Secretary of State Francis B. Loomis (see last RECORD, p. 358) was concluded on June 19. In his report, Secretary Taft found that the only transaction which Mr. Loomis had had with the New York and Bermudez Asphalt Company was a mere transfer of funds from Caracas to New York. The report further censured Mr. Loomis for becoming personally interested in the Mercado claim against the Venezuelan government and for placing himself in the light of an agent of an American syndicate holding a claim of ten million dollars against the Venezuela government. Secretary Taft exonerated Mr. Loomis of other charges brought by Mr. Bowen. On June 21, in a letter to Secretary Taft approving his findings in the Loomis case, the president ordered the dismissal of Mr. Bowen from the diplomatic service for bringing reckless charges against his predecessor and for disloyalty to the diplomatic service. In a long communication given to the press on June 22 Mr. Bowen reiterated his charges against Mr. Loomis and asserted that attempts had been made to secure silence on his part through promotion in the service. On May 20, the president of the Venezuela court of cassation, sitting as a tribunal of first instance, handed down a decision revoking the Hamilton concession held by the New York and Bermudez Asphalt Company, on the ground that the company had not fulfilled the terms upon which the concession was granted (see last RECORD, pp. 357, 358). The company appealed the case to the full court of cassation. On August 7, the Venezuelan court of cassation sitting as a court of last in-

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stance confirmed the judgment of the same court against the New York and Bermudez Asphalt Company, revoking the Hamilton concession. In October the Venezuela government, in a suit against the same company for $11,000,000 damages for aid rendered by the company in 1901 to the revolution headed by General Matos, held an examination of witnesses in New York City under letters rogatory. Several witnesses, among them General Francis Greene, formerly president of the National Asphalt Company, testified that the company had furnished money to the revolutionists, and had otherwise granted them assistance. In July ex-Judge W. J. Calhoun was appointed special commissioner to investigate the points at issue between Venezuela and the United States.—On November 4 it was reported that in reply to an inquiry from Secretary Root, President Castro had stated that Venezuela welcomed the suggestion of the United States that the next Pan-American Congress be held at Caracas.—Negotiations between France and Holland concerning the delimitation of the frontier of **French** and **Dutch Guiana** were brought to a close the last week in May. The terms of the draft convention were finally agreed upon. France obtained the disputed territory of about 250,000 hectares between Itany and Maroni together with the Awa islands and the main islands of the lower Maroni.—Early in May, J. H. Edwards, deputy collector of customs under the agreement between **Santo Domingo** and the United States (see last RECORD, pp. 356, 357), took charge of the custom-house at Sanchez. In consequence of a hostile demonstration incited by the anti-American party, United States marines were landed to protect the custom-house. In June the Santo Domingo Congress repudiated the protocol signed January 31, 1903, and the arbitral agreement thereunder according to which the Dominican government was ordered to pay $4,500,000 to the Santo Domingo Improvement Company of New York. In July an insurrection was reported in the Barahona district and the United States cruiser "Des Moines" was ordered to Barahona. Under American administration the customs receipts have been steadily increasing. In the first four months $383,000 were set aside for the benefit of the creditors of Santo Domingo, under the *modus vivendi*. An investigation into the finances of the republic was conducted by Professor Jacob Hollander.—In May a treaty of friendship and commerce was signed by Great Britain and **Cuba**. The most-favored-nation clause proposed by the former was rejected by President Palma, who was unwilling to grant to Great Britain the privileges enjoyed by the United States.—After considerable negotiation, **Panama** consented in October to negotiate on the question of the division of the debt with Colombia. It was proposed to divide the debt on a basis of population.—In June the **Nicaraguan** government announced the signature of two treaties with Great Britain. One of them recognized the sovereignty of Nicaragua over the Mosquitos in return for certain concessions to the Mosquito Indians living under British protection. The second treaty was a commercial convention suppressing Greytown (Juan del Norte) as a port free to the British.—Much ill-feeling has been

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created among New England fishermen by the announced determination of the **Newfoundland** authorities to exclude Americans from fishing in the harbors and bays of Newfoundland.—On June 6, Judge La Fontaine, extradition commissioner of Montreal, gave judgment in the case of the United States *v.* John F. Gaynor and Benjamin J. Greene (see last RECORD, p. 356) committing them for extradition. Appeal to the supreme court was granted the defendants, but on June 26 the appeal was quashed. On October 7 the defendants were delivered to United States officers, and on October 9 arrived at Savannah, Georgia, where they will be held for trial. —On May 10 it was announced that Count Cassini, the Russian ambassador to the United States, had been transferred to Madrid and that his place would be taken by Baron Rosen. The new ambassador was received by President Roosevelt July 13.—On May 27 the Russian government announced that all foreign passports would be recognized, thus meeting the representations of the United States relative to discriminations against American Jews traveling in Russia. Duties discriminating against American goods were removed by the Russian government on September 10.

INTERNATIONAL ARBITRATION AND PEACE CONGRESSES.—**The Hague Tribunal** met May 15 to examine the dispute between England, Germany, France and Japan with reference to the house tax levied by Japan in the foreign concessions. On May 22 the court decided against Japan, on the ground that the territory ceded by Japan is held by the powers under perpetual lease free from all taxes and charges whatsoever, the same principle applying to all buildings erected or about to be erected thereon. The last week in July, the Hague court again met to arbitrate the controversy between France and England over the right of French traders to navigate their ships in the Gulf of Arabia. The decision rendered August 1 held that French permits issued prior to 1892 were still valid, but that as to those issued later, the right of the sultan of Muscat to control his trade must be recognized.—An arbitration treaty was signed between France and Denmark in September.—At the annual conference on arbitration which opened at Lake Mohonk on May 31, it was proposed to draft a model arbitration treaty. The work of drafting the treaty was assigned to Congressman Bartholdt, president of the Interparliamentary Union for International Arbitration. On August 28, the **Interparliamentary Congress** met at Brussels. The American proposals for a permanent congress of nations for the purpose of defining international law and for a model arbitration treaty were first discussed. The former project was submitted to a committee of specialists from the parliaments of the various nations and an actual draft of the proposed form of treaty was submitted as well as a program for the coming congress at the Hague.—**The Universal Peace Congress** began its sessions in Lucerne, September 19, with a representation of 340 delegates. Elie Ducommun, of Berne, was elected president.—On May 14 a new peace association was formed in Paris of leading men of Europe and America, the list of members comprising savants,

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authors, artists, politicians and professional men. It is to be known as The National Interests and International Conciliation Association and is under the presidency of Senator Berthelo.

II. THE UNITED STATES.

THE ADMINISTRATION.—The death of John Hay, secretary of state, occurred on July 1. Mr. Elihu Root, of New York, was appointed as his successor. Charles J. Bonaparte, of Maryland, was appointed secretary of the navy to take the place of Paul Morton, resigned.—On June 23 it became known that Assistant Secretary of State Loomis had been chosen as special ambassador of the United States to participate in the ceremonies attending the delivery of John Paul Jones's body by France to the United States. It was further reported that upon the termination of his ambassadorship Mr. Loomis would visit the various American legations and embassies in Europe to make inquiries into their executive methods. On August 8 he reported to the president the results of his inquiries. On September 4 Mr. Loomis resigned his position as assistant secretary of state. Mr. Robert Bacon was appointed as his successor. (For the Bowen-Loomis controversy, see AMERICAN INTERNATIONAL RELATIONS, *supra*.)—During the summer a special commission, with Mr. Charles A. Keep, assistant-secretary of the treasury, as chairman, carried on an investigation into the business methods of the various departments of the public service. Especial attention was given to the administration of the government **printing office**, owing to charges made by a firm of type-setting machine manufacturers that a large contract had been improperly awarded to a rival concern. The investigation proved the charges unfounded but disclosed conditions which justified the removal of Public Printer F. W. Palmer. Mr. O. J. Ricketts, formerly foreman of printing, was placed in temporary charge of the printing office. —Charges of bribery were brought in August against two contractors supplying goods to the Schuylkill arsenal. Prosecution of the contractors was ordered by the war department on September 8.—Early in June, Richard Cheatham, secretary of the Southern Cotton Grower's Association, reported to Mr. Wilson, secretary of the department of agriculture, that advance information respecting the official **cotton estimate** had been furnished by some subordinate in the department to speculators in New York. Pending the investigation of charges, Edwin S. Holmes, assistant statistician, was, at his own request, suspended from duty. In the report on the investigation published July 8, Secretary Wilson stated that Mr. Holmes had communicated advance information to brokers L. C. Van Riper and Mr. Haas, the latter acting as go-between and conveying information from Holmes to other New York brokers. Mr. Holmes was dismissed from the service, and together with Messrs. Haas and Peckham, was indicted by a federal grand jury for conspiracy to defraud the United States government. Early in November Messrs. Peckham and Haas were discharged from custody on the ground that neither of them had committed a statutory crime. The resignation of

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Chief Statistician Hyde, of the department of agriculture, was accepted on July 18, Assistant Secretary Hays being detailed to take charge of the work. As a result of the scandal, it was reported that the bureau of statistics of the department would be re-organized.—Charges of improper relations between the tobacco trust and officials in the department of agriculture were made, but upon investigation proved unfounded.—Charges of corruption were also brought against high officials in the bureaus of animal and plant industry. Although the charges were not established, the resignations of Dr. George T. Moore, physiologist and algologist of the department of agriculture, and of Dr. Daniel E. Salmon, head of the bureau of animal industry, were accepted.—On May 23, August W. Machen pleaded guilty to the charge of conspiring to defraud the government (see RECORDS of December, 1903, p. 726; June, 1904, p. 341, and December, 1904, p. 730) and was sentenced to two years' imprisonment. George E. Lorenz, convicted in the autumn of 1904 on the same charge, was, on June 27, remanded to the federal authorities, to be removed to prison.—On September 12, Senator Burton, of Kansas, was again indicted for accepting money for practicing before the executive departments. (See RECORD of December, 1903, p. 727).—On May 13, Walter F. Matthews, United States marshal for the district of Oregon, was removed by the president for lack of zeal in prosecution of parties implicated in the **land frauds** (see last RECORD, p. 360).—On July 3, Senator John H. Mitchell was convicted on the charge of accepting money for practising before the departments of the federal government in connection with the Oregon land cases. He was sentenced to six months of penal servitude and to pay a fine of $1000. On September 28, Congressman Williamson, Dr. Van Gessner and Marion R. Biggs, formerly a United States land commissioner, were convicted of conspiracy to suborn perjury in connection with the Oregon land frauds. Extensive land frauds have been unearthed also in California and New Mexico.—During the summer much evidence on the question of the regulation of **railway rates** has been taken by the Senate committee appointed at the special session of Congress in the spring (see last RECORD, p. 364). The president and members of his cabinet have repeatedly asserted the determination of the administration to endeavor to secure the passage of a railway rate law. Alleged abuses on the part of the private-car lines have been under investigation by the Senate committee and by the Interstate Commerce Commission.—The latter body, on May 18, rendered a decision on the so-called differential rates granted by the railways to the various seaports. The commission recommended a reduction in the differentials, holding that they resulted in an unjust diversion of traffic from New York City.—As the outcome of the grain-rate investigation carried on by the Interstate Commerce Commission three men were indicted by a federal grand jury at Louisville, on October 24, for accepting rebates.—On September 25, charges of discrimination on several of the important trunk lines, in favor of the Standard

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Oil Company, were filed with the Interstate Commerce Commission, and are under investigation. Similar charges brought against the Illinois Central and Louisville and Nashville roads resulted in August in a change in freight schedules which in effect place the oil trust and its competitors on an equal footing.—The investigation of the charges against the Santa Fé railway (see last RECORD, p. 361) has been carried on through the summer, although hampered by the retirement of Messrs. Harmon and Judson, the attorneys conducting the case for the government. Assistant Attorney-General Purdy was placed in charge of the prosecution.—On July 21, a serious boiler explosion took place on the gunboat "**Bennington**" at San Diego, California, and several officers and about a score of the crew were killed. A court of inquiry found that the disaster was due to the negligence of members of the crew. Of those held responsible only one survived, Ensign Charles T. Wade. On August 30, Secretary Bonaparte ordered the latter and Lucien Young, commander of the "Bennington," to be tried by court martial.—In May, much adverse criticism was aroused by the rigorous application of the **Chinese exclusion laws** to a party of four educated Chinese. Although provided with passports and a letter of introduction from Mr. Joseph Choate, they were not permitted to land until they had been photographed and placed under bond. The incident led to a protest to President Roosevelt by a delegation of manufacturers interested in Chinese trade. On June 14, the president directed Secretary Metcalf to see that immigration officers exercise discretion in the enforcement of the Chinese exclusion law, to the end that the relations of the United States with China may remain cordial. On June 25, the president sent a letter to the acting secretary of state ordering the state department to issue a circular to American diplomatic and consular representatives in China, warning them that due care must be exercised in the issue of certificates to the classes of Chinese entitled freely to enter the United States. The letter also stated that such certificates would be accepted by the immigration officials unless good reason could be shown for refusing to do so.—Much comment was occasioned by an order issued by the president on October 17 giving executive heads the right summarily to dismiss employees under the classified service, when satisfied of the incompetence or untrustworthiness of such employees.

THE DEPENDENCIES.—Early in May, an engagement took place between the American troops under General Wood and a band of six hundred Moro outlaws under the leadership of Pala. Three hundred Moros were killed; seven Americans were killed and sixteen wounded. On October 22, Ali, chief of the Moro insurgents in Mindanao, was surprised and killed, together with a number of followers. On May 17, in an engagement with the Pulajanes on the coast of Samar, Col. Wallace Taylor of the constabulary and ten privates were wounded and one private was killed. Late in May, Brigadier-General Carter with sixteen companies of infantry

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was detailed to suppress the uprising in Samar, and on June 10 he reported the capture of the main stronghold of the Pulajanes, the killing of the chief Daguhob and forty of his followers. Much discontent on the part of the natives has been reported from various parts of the Philippines. Among the alleged grievances were abuses on the part of the constabulary, failure to extend to Filipinos opportunities in the civil service and race antagonism. — On June 30, Secretary Taft, accompanied by a party including members of both houses of Congress, army officers and Miss Alice Roosevelt, started for the Philippines. They arrived early in August, and were received with much enthusiasm. At a banquet given by Filipinos in honor of Secretary Taft and his party at Manila, August 11, the secretary announced that a **popular assembly** would be organized in 1907, provided that no insurrection existed at the time.—On June 11, the war department made public its plans for a system of **railways** for the Philippines, and invited proposals for their construction under the terms of the Philippine Promotion act (see RECORDS of June, 1904, p. 340, and June, 1905, p. 361).—In May, Governor Wright appointed a committee to investigate the question of improving the harbor of Manila in order to attract oriental trade to the islands.—In a severe storm which occurred on September 27, many lives were lost and much property was destroyed. The naval station at Cavité was seriously damaged, and a gunboat was sunk in the harbor.—On October 12, it was announced that disputed points in the contract for the purchase of the **friar lands** (see RECORDS of December, 1902, p. 723, and March, 1903, p. 359) had been settled, and that the final payment for the lands, amounting to $3,050,000, would be made about October 20.—On July 25, delegates from the municipalites in **Porto Rico** assembled in convention at San Juan to memorialize Congress on needed governmental changes. In resolutions unanimously adopted, it was proposed that an insular senate composed of two senators from each of the seven districts should be organized in place of the executive council; that the secretary, the attorney general, the treasurer, the auditor, the commissioner of education and the commissioner of the interior, be appointed by the governor, with the consent of the proposed insular senate, and not by the president of the United States. Municipal autonomy also was demanded, and considerable bitterness was manifested toward the centralizing policy of the present government.—In **Hawaii** considerable friction between the governor and the legislature was reported. In June it was reported that Governor Carter had resigned, but it was later announced that at the urgent request of President Roosevelt he would retain his post.

PANAMA AND THE ISTHMIAN CANAL.—On May 25 Mr. Magoon took the oath of office as governor of the canal zone.—Much indignation was expressed by Secretary Taft over the resignation of John F. Wallace, chief engineer, in order to accept a position with higher salary in the United States. John F. Stevens was appointed on June 30, as his suc-

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cessor.—On July 2 it was announced that Governor Magoon would act as minister of the United States to the republic of Panama, to take the place of Minister Barrett, transferred to Bogota.—Many adverse comments on the **sanitary conditions** in the canal zone appeared in the American press during the summer. A number of cases of yellow fever, bubonic plague and smallpox were reported, and malarial maladies appear to have been exceedingly common. In July it was announced that every effort would be made to improve sanitary conditions in the canal zone. Messrs. Nazro and Moffett of the welfare department of the Civic Federation were engaged by the canal commission to go to Panama to devise plans for providing recreation for the employees.—Great difficulty was experienced in securing a sufficient **labor supply**. It was announced in July that the commission would advertise for bids for contracts to furnish Italian, Japanese and Chinese laborers, 2000 of each nationality. On June 8 Attorney-General Moody handed down an opinion holding that the act of August 1, 1892, limiting to eight hours the daily service of laborers in the employ of the United States government applies to the construction of the canal.—A great deal of consternation was created in certain business circles by the announcement, early in May, that supplies for the canal would be purchased in the cheapest market, not necessarily of American firms. On May 19, however, it was explained that purchase of supplies in foreign markets was regarded by the president merely as a last resort in case American companies combined to extort exorbitant prices.—A small scandal was created by the awarding by Chairman Shonts of the canal board of a concession for the exclusive furnishing of laborers' supplies to J. E. Markel of Omaha. The concession was to run for five years, and was said to involve $50,000,000. Rejected bidders alleged that they had offered better service at lower charges. After much discussion the concession was withdrawn.—In the period under review no decision was reached as to the question whether a lock or a sea-level canal should be constructed.—On July 11, the report of Joseph L. Bristow, special commissioner to investigate trade conditions and other matters affecting the **Panama railroad** (see last RECORD, p. 363), was made public. Among his recommendations were the immediate improvement of the facilities of the road for handling traffic; the reduction of freights to the point of operating cost and reasonable return on the actual investment; the cancellation of the contracts with the Pacific Mail Steamship Company; and the opening of the ports of Colon and Panama on equal terms to all steamship lines.—On October 27 the canal commission made public a report including an account of expenditures. Of the $10,000,000 appropriated, about $1,000,000 remained—barely enough to meet expenses until January 1. Of the $9,000,000 spent only $694,000 was credited to "canal construction."

THE FEDERAL JUDICIARY.—In United States *v.* Ju Toy the supreme court held that the constitutional guarantee of due process was not in-

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fringed by the act of 1894, making the decision of the appropriate department concerning persons of Chinese descent seeking admission to the United States conclusive and binding on the United States courts except in cases of abuse of authority; and that a person of Chinese descent, denied admission to the United States by the immigration officers and, on appeal, by the secretary of commerce and labor, could not obtain, on grounds of alleged citizenship alone, a writ of *habeas corpus*. Justices Brewer, Peckham and Day dissented.—In Clark *v.* Nash the court decided that the validity of a state law permitting the condemnation of lands in favor of private persons for irrigation and mining purposes depended, so far as the question of public use was concerned, upon the peculiar climatic conditions of the area affected.—In United States *v.* Winans it was decided that the United States, while exercising governmental power over a territory, might grant appropriate rights which the state subsequently created could not disregard.—According to Thompson *v.* Darden, the court cannot avoid the provisions of a state pilot law conforming to the federal statutes merely because it deems them unwise or unjust.—In the Old Dominion Steamship Company *v.* Virginia it was maintained that a state might tax vessels engaged in commerce wholly within the limits of the state although they were registered for interstate commerce at a port in some other state.—In Delaware, Lackawanna and Western Railway Company *v.* Pennsylvania, the court held that coal mined by a domestic corporation in one state but transported to another state for sale could not be appraised as part of the capital stock of the corporation for taxation in the state in which it is located, inasmuch as this would be deprivation of property without due process.—In L. A. Kinsey *v.* The Board of Trade of Chicago it was held that contracts with telegraph companies limiting the communication of quotations of prices did not constitute restraint of trade or an attempt at monopoly. In Cantwell *et al. v.* the state of Missouri the validity of the state law making eight hours the length of the working day in mines was upheld.—In Ah Sin *v.* Witman it was held that, where a petitioner alleges that a law is unconstitutional not in its form but in the manner of its administration against a class, it must be conclusively shown that the conditions against which the law is directed are not peculiar to the class affected and that there are other offenders against whom the law is not enforced.—The decision in the case of Van Reed *v.* People's National Bank of Lebanon held that national banks were *quasi*-public institutions and could not be interfered with by state legislative or judicial action except so far as Congress permitted.—In a decision handed down May 29 the supreme court upheld the constitutionality of the New York special franchise tax law of 1899.

STATE AFFAIRS.—In **New York** important measures signed by the governor during the period under review were the transfer and mortgage tax laws (see last RECORD, p. 367); a law extending the term of the mayor of New York City from two to four years; and the Ambler law, designed to

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do away with the so-called Raines law hotels.—In June a special session of the New York legislature was called to try Supreme Court Justice Warren B. Hooker, charged with employing his influence to defraud the government of the United States and with other corrupt and unlawful practices. After a session of nearly six weeks it was found impossible to secure the requisite two-thirds majority for impeachment.—In July, upon recommendation of Governor Higgins, a joint commission of the legislature with Senator Armstrong as chairman was appointed to investigate the **insurance scandals**. Among the facts brought to light by the committee was the payment by one of the great New York companies of large sums to the Republican national campaign fund; the use of the stockholders' money to influence legislation and the press; gross favoritism in the appointment of officers and the determination of their salaries and a general tendency among certain high officers to further their private interests through manipulation of the funds of the companies.—In **Wisconsin** Governor La Follette's railway tax measure became law.—A maximum freight-rate law went into effect in **Missouri** on June 16. The **Pennsylvania** supreme court issued on June 22 a permanent injunction restraining the merging of the cities of Pittsburg and Allegheny (see last RECORD, p. 367).—Late in October the Enterprise National Bank of Pittsburg failed. The bank had been entrusted with over $1,000,000 of state funds, and in order to retain its position as a favored depository appears to have become involved in extensive unsound business dealings with prominent politicians in the state.—In **South Carolina** official investigations prosecuted during the summer disclosed extensive corruption in connection with the purchase of liquors for the state dispensaries, and a vigorous campaign was carried on for the abolition of the dispensary system.—Serious conflict arose between the officials of the states of **Louisiana** and **Mississippi** as a result of the quarantine against yellow fever enforced by the latter state. The governor of Louisiana charged the Mississippi militia with invasion of Louisiana territory.—A conference on quarantine and immigration called by the governors of twelve southern states was held in Chattanooga on November 9 and 10.—In **New Jersey** a vigorous campaign against the granting of perpetual franchises to public-utility corporations has been carried on by Assemblyman Everett Colby.—In **Arkansas** an investigation by the grand jury at Little Rock resulted in the arrest of several members of the legislature charged with bribery. In **Michigan** and **Massachusetts** extensive naturalization frauds were disclosed.

MUNICIPAL AFFAIRS.—In **Philadelphia** great popular indignation was aroused by the proposal of the city council to extend the lease of the municipal gas plant seventy-five years, for the sum of $25,000,000, the money to be paid before the end of 1907. As passed by the council the bill provided for a slight reduction in the price of gas after 1911. The proposition was defended on the ground that the city was in immediate need of a large sum of money for public improvements, while the borrowing

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capacity of the municipality allowed of only $15,000,000 additional indebtedness. Mayor Weaver opposed the passage of the bill on the ground that the sum to be paid represented a gross undervaluation of the franchise. In order to prevent the passage of the bill over his veto, the mayor undertook to overthrow the Republican organization in the city through his control of patronage. On May 23 he dismissed from office David. J. Smyth, director of the department of public safety, and Peter E. Costello, director of the department of public works. A temporary injunction against the removal of these officers was granted by Judge Ralston in the court of common pleas. Mayor Weaver took forcible possession of the offices on May 25, a writ of special *supersedeas* having been granted by Chief Justice Miller and Justice Potter of the supreme court. On May 27 the United Gas Improvement Company formally withdrew its proposition for a lease, this action being taken at the request of the Republican organization. On May 29 Israel W. Durham, the Republican leader, issued a statement to the effect that his friends in the council would not oppose the confirmation of the officials appointed by the mayor to succeed Messrs. Smyth and Costello, a statement taken to indicate that the machine had surrendered to the mayor. On June 1 the mayor announced that he would select an advisory board, composed of leading citizens of Philadelphia, to act with him in matters of public interest. Early in June several other city officials prominent in the Republican organization were dismissed by the mayor. On June 13, by the direction of the mayor, Frank H. Caven, select councilman, was arrested on the charge of violating the law through participation in the profits from city contracts. On July 1, Israel W. Durham resigned his position as state insurance commissioner. June 23 a warrant was issued for the arrest of John W. Hill, formerly chief of the filtration bureau, on charge of forgery in connection with filtration contracts. An investigation of the filtration and other city contracts was held, and on October 29 a report was made public stating that the city had paid $18,761,541 for work which should not have cost over $12,430,000. Of the $6,330,000 profits, $5,065,000 had been secured by a firm of which Durham is a member. With a view to checking fraudulent voting in the November election the mayor undertook a thoroughgoing examination of the voting lists, and in June it was reported that over 50,000 names had been stricken off. On October 25 over 15,000 additional names were eliminated from the revised voting lists.—In May the city of **Chicago** won a legal victory over the Union Traction Company, which had secured an injunction restraining the city from interfering with the use of the Adams Street line. The court held that the franchise had expired in April, 1904. James Dalrymple, head of the street-railway system of Glasgow, Scotland, was invited by Mayor Dunne immediately after his election to visit Chicago and offer advice upon the municipal management of street railways. After studying the Chicago situation, Mr. Dalrymple declared it to be his opinion that municipal ownership could not succeed under

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American conditions. At the close of the period under review little progress had been made toward acquiring the properties of the existing traction companies, or in the construction of the competing traction system which Mayor Dunne had planned.

ELECTIONS.—In **Ohio** the Democratic state ticket was victorious, John M. Pattison, candidate for governor, receiving a substantial majority. As a result of the election, George B. Cox, Republican "boss" of Cincinnati, announced that he would retire from politics.—In **Pennsylvania** the Democratic candidate for state treasurer was elected by a heavy majority.—In **Massachusetts** Mr. Guild, Republican, was elected governor by a majority of over 20,000.—In **Maryland** the proposed constitutional amendment disfranchising the negroes was decisively defeated.—George H. Utter, Republican candidate for governor of **Rhode Island**, was elected.—In **New York City** Mayor George B. McClellan was reëlected by a plurality of 3,660 over William R. Hearst, municipal ownership candidate. Gross frauds on the part of the Democratic machine were alleged, and Mr. Hearst announced his intention of contesting the election. William Travers Jerome, independent candidate for district attorney, was reëlected by a plurality of about 5,000.—In **Philadelphia** the City Party, formed under the leadership of Mayor Weaver to combat the machine, carried the city by a large majority.—In **San Francisco** Mr. Schmitz, candidate of the Union Labor party, secured a majority of about 12,000 over the fusion candidate of the Republican and Democratic parties.—In **Salt Lake City** the American party, formed to oppose Mormon influence, elected its candidate for mayor and secured control of the council.

THE TRUST PROBLEM.—In July the federal grand jury at Chicago indicted 26 persons, officials of the packing companies and of transportation agencies for conspiracy in restraint of trade. In Kansas and in Montana also the beef trust has been a subject of investigation by grand juries.—A federal grand jury in New York has been carrying on an investigation to determine whether the American Tobacco Company has been violating the Sherman anti-trust law; and the business of the paper trust has been under investigation by federal authorities in Wisconsin and Minnesota.—In Arkansas the Logan anti-trust act was declared constitutional by the state supreme court.—On July 7, the law passed last winter by the Kansas legislature, appropriating $410,000 to build an oil refinery in connection with a branch penitentiary (see last RECORD, p. 368) was declared unconstitutional by the state supreme court.—The suit to oust the Standard Oil Company from doing business in the state was continued. In Missouri, September 10, a temporary injunction was secured by the state attorney-general restraining the Standard Oil Company and subsidiary corporations from doing business in the state (see also THE ADMINISTRATION, *supra*).

LABOR AND CAPITAL.—The **Chicago teamsters' strike** (see last RECORD, p. 369) reached an acute stage early in May. Large numbers of

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non-union men, many of them negroes, were imported from St. Louis and other cities, to take the places of the strikers. The police were unable to cope with the situation and at times the state of the city bordered on anarchy. The employers' association armed the strike-breakers in their employ with rifles. In a riot that occurred May 1, one man was killed and 150 hurt. Serious riots occurred throughout the following week, several men being killed and a great number injured. Governor Deneen nevertheless refused to call out the state troops, since Mayor Dunne insisted upon the ability of the Chicago police to cope with the situation. On May 6 Mr. Shea, president of the teamsters' union, requested Governor Deneen to act as mediator, but the employers refused to consider arbitration. On May 8 the department stores and dry-goods houses were able to send out almost the usual number of delivery wagons, deputy-sheriffs and policemen riding on the wagons to defend the drivers. On May 9 teamsters engaged in the delivery of flour joined the strike. On May 10 a committee of the labor unions secured an interview with President Roosevelt, who was passing through the city. In reply to a petition presented to him by the strikers against the bringing of federal troops to Chicago, the president declared his intention of doing anything that might be necessary to preserve public order. On May 15 it was reported that the strikers had appealed to the national board of the American Federation of Labor, with a view to effecting a settlement, but the federation officers were unable to persuade the employers to recede from their position. In a conference held on May 20 representatives of the employers' association and of the International Brotherhood of Teamsters reached an agreement upon all points except the re-instatement of the drivers of the express companies. Owing to the refusal of the express companies to yield this point, the strike was resumed; and on May 24, it was extended to the lumber district, forcing most of the lumber companies to suspend business. Toward the middle of June it was reported that the ranks of the strikers were breaking, and that the men were applying in large numbers for their old places. On July 1, the Cook County grand jury which for a month had been investigating the teamsters' strike returned seventeen indictments against strikers for conspiracy to injure the business of their employers, and thirty-two indictments on charges of intent to commit bodily injury and assault with intent to kill. On July 21 the strike was officially declared off. The duration of the strike was 105 days; the cost to the unions is estimated at $300,000, and the loss in wages at $750,000, while the cost to the employers was placed at $2,100,000 without including the injury to business. Twenty-one persons were killed and 450 injured. In the strike no question of wages or hours nor even the question of the recognition of the union had been involved. Moreover, it appeared in testimony taken before Master in Chancery Sherman that of the 4500 men involved in the strike only thirty-seven had voted on it.—On August 26, the job-printers in Chicago struck for an eight-

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hour day, and early in September it was announced that job printers throughout the country had been ordered out, to the number of about 6000 men. In Chicago, the strikers practically enforced their demands, as also in several other cities. The bulletin issued by the officers of the International Typographical Union on October 15 stated that agreements establishing an eight-hour day had been reached between 240 local unions and their employers. In fifty-three cities the strike was still on.—On September 6, 300 United States mail-wagon drivers in New York City struck, their demands being an increase in wages and a reduction of the working day from twelve hours to eleven. Non-union drivers were put on the wagons, and some minor cases of violence were reported. On September 30, the strike was declared off. A slight increase in wages was granted. In August a strike of several hundred "kosher" bakers in New York City took place. The strike was vigorously prosecuted, several encounters between the police and the strikers taking place, but no one was seriously injured. On August 18 the strike had practically ceased, most of the employers having granted the men's demands for recognition of the union and for increased wages.—On August 7 a general strike was ordered against the American Bridge Company. It was estimated that over 15,000 men would be involved. The cause of the strike was the sub-letting of a contract by the American Bridge Company to an "unfair" concern.—On September 1 a strike was called by the Amalgamated Sheet Metal Workers in New York city. 2,700 men were involved. An increase in wages from $4.00 to $4.50 a day was demanded.—On May 11 the Rockmen and Excavators' Union of New York city ordered a strike against the Contractors' Protective Association for a new wage scale and recognition of the union. 1800 men were at first involved. On May 23, the Contractors' Association locked out over 10,000 men. At the close of the period under review, no settlement had been reached, but most of the men had returned to work.—On August 1 the telegraphers on the Great Northern and Northern Pacific railroads, having been given their choice between accepting the wage schedules proposed by the company or quitting the service, struck to the number of about 1500. Much inconvenience in handling traffic was experienced, but within a few days the companies had supplied the places of the strikers. On August 19 the strike was declared off.—During the summer reports were circulated that the anthracite coal miners were completing their organization and accumulating funds in order that, on the expiration of the strike commission's award next April, new conditions, including unequivocal recognition of the miners' union, an eight-hour day and an increase in wages for unskilled labor, might be imposed upon the operators. The operators also formed an organization with a view to resisting the demands of the men.—In June a socialistic labor organization, called "The Industrial Workers of the World," was formed in Chicago to oppose the American Federation of Labor.—As referee in the settlement of the Fall River strike (see last

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RECORD, p. 368) Governor Douglas found that a partial restoration of wages was unjustified.—On May 18, Governor Higgins signed a bill authorizing the issue of child-employment certificates by local health authorities where a child can not produce all the documentary evidence of health required under the present law. Another measure signed on the same day extends to second-class cities the law of 1903 regulating the employment of children in selling newspapers.—On June 21 the Massachusetts supreme court handed down a decision holding an attempt to force all laborers to combine in unions to be against public policy. On June 23, the United States circuit court of California granted an injunction against the California State Federation of Labor on the ground that the union had conspired to destroy the property and ruin the business of an employer. Picketing was declared unlawful in a decision rendered in the appellate court of Illinois early in October.

THE RACE PROBLEM AND LYNCHING.—**Conferences of negroes** called for the purpose of discussing the interests of the black race were held during the summer at Atlanta, Hampton, Niagara Falls and New York. The Niagara Falls conference protested against the movement in the various states for curtailing the political rights of the negro. The New York conference discussed the position of the negro in business.—In Maryland a proposed constitutional amendment, including "understanding" and "grandfather" clauses and designed to limit the **suffrage of negroes** was the main political issue in the period under review. Opponents of the amendment emphasized the fact that the negro vote in Maryland was not of sufficient importance to endanger white control, and that the measure was apparently directed against white foreign-born citizens as well.—In Florida the state supreme court declared unconstitutional the "Jim Crow" street-car law, which went into effect July 1. In Nashville negro capitalists organized an auto-car line to compete with the street railways, in protest against a city ordinance discriminating against negro passengers.—In the period under review, twenty-two negroes and one white man were **lynched**; two negroes were burned at the stake. In six cases the charge was rape, in most of the remaining cases murder or assault. At Watkinsville, Georgia, a mob broke into the jail and lynched seven prisoners charged with various crimes. Attempted lynchings in Alabama, Tennessee and Kentucky were frustrated by the intervention of the militia. All the lynchings took place in the southern states.—**Race riots** occurred at Turner, South Carolina, in New York city, in Pittsburg, at Carlisle, Indiana, and in several counties of Texas.—In Illinois, an act was approved by the governor providing that any person taking part in a mob which inflicts injury to life or limb under color of punishment for crime or misdoing may be fined and imprisoned; that surviving heirs of the victim of a lynching may recover damages not to exceed $10,000 from the county in which the lynching takes place; and that a sheriff who fails to prevent a lynching of prisoners in his custody

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shall be removed from office by the governor and reinstated only upon proof of his inability to protect the prisoners.—In Mississippi a federal grand jury returned indictments against 300 persons on the charge of **whitecapping**.—In Alabama John C. Bowdoin was convicted in the United States circuit court for holding a white man in peonage.

III. LATIN AMERICA.

The new monetary law in **Mexico** (see last RECORD, p. 372) became operative on May 1. The theoretical unit of the monetary system is represented by seventy-five centigrams (11.57 grains) pure gold, denominated a peso; silver coins will be struck on the basis of this peso. The power of coining will appertain to the federal executive exclusively.—The Congress of **Costa Rica** met on May 1. The message of President Esquivel announced that the commerce of the country was increasing and that the credit of the republic was being strengthened abroad. The budget showed a surplus of receipts over expenditures. The settlement of the foreign debt was stated to be the most important problem before the Congress and the country.—On May 23, the National Liberal Convention of **Cuba** nominated José Miguel Gomez, governor of Santa Clara province, for president and Senator Alfredo Zayas for vice-president. The candidates of the Moderate party, nominated in July, were President Palma, for reëlection, and Señor Mendez Capote for vice-president. On July 23, the commission sent by the government to examine the municipal records of the town of Vueltas found the building in which they were kept in flames. The mayor and other officials were indicted on a charge of resisting government inspectors in the performance of their duty. The relations between the Liberals and the Moderates were severely strained owing to serious charges and counter-charges of dishonest electioneering methods. At Cienfuegos, on September 22, Representative Villuendas, Chief of Police Illance and four others were killed. Evidence was found that the Liberals had planned to use dynamite extensively. The elections of boards of registration on September 23 resulted in a complete victory for the Moderates. The final elections were set for December. On September 27 Gomez withdrew his name from the Liberal ticket, declaring that, as there was no hope of fair play at the elections in December, the United States ought to be asked to intervene. The Liberals on October 1 refused to accept the resignation of Gomez. The government denied charges of illegal action and in October eleven Liberals were indicted for sedition.—On May 1 a convention of the people of **Colombia** extended the term of General Reyes as president from four to ten years.—In May President Castro, of **Venezuela**, granted amnesty to political offenders, but the limitation of the grant to offenders of the second rank excluded the chief adversaries of the president. On June 7, General Castro was formally reëlected president of the republic. In July Venezuela paid the first instalment in satisfaction of the British and German claims under the recent contract for the conversion of the foreign debt. (For other

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Venezuelan events, see AMERICAN INTERNATIONAL RELATIONS, *supra*.)—The federal Congress of **Brazil** opened early in May. The message of the president was devoted largely to financial questions and to relations with other South American states, particularly to the delimitation of frontiers. It laid stress on the necessity of attracting immigration and announced the introduction of a measure creating a ministry of agriculture. In August the Senate voted an amnesty in favor of those who participated in the sedition of last November. (See last RECORD, p. 371.)—The congress of **Argentina** opened May 1. The message of President Quintana promised that the state of siege proclaimed on account of the revolutionary movement last February (see last RECORD, p. 371) should not be prolonged; announced electoral reforms, the shortening of the term of military service, legislation on labor questions, reduction of customs duties and of patent fees; and recommended the progressive renewal and increase of the fleet. Measures for the conversion of the national debt passed both houses during the summer. On August 12 an unsuccessful attempt was made to assassinate the president. In October the Workmen's Federation decided on a general strike, and Congress retaliated by passing a resolution declaring martial law throughout the country for ninety days.—In July the **Paraguay** Chamber of Deputies passed a bill organizing a general office of immigration and colonization.—The Congress of **Chili** opened in June. The presidential message announced an adjustment of the differences with Argentina and Bolivia. The propositions for legislative action included reform of the code, of the consular service and of the police system, and plans for irrigation and for the development of the merchant marine.

IV. BRITISH AMERICA AND AUSTRALIA.

In **Canada** the debate on the organization of the Northwest territories continued to occupy the attention of the Dominion Parliament (see last RECORD, p. 372). The attempt of the opposition to block the measure of the government by an amendment referring educational matters to the discretion of the provinces was defeated in May. The government carried through its bill and the new provinces were formally inaugurated during the first part of September. Parliament increased the pay of ministers and legislators, and voted a salary to the leader of the opposition and annuities to ex-ministers. Parliament was prorogued on July 20, and it was announced that there would be a reconstruction of the ministry before another session opened.—In September a board of three ministers began an exhaustive inquiry into the trade conditions of the country with a view to the revision of the tariff. The annual convention of the Dominion Trade and Labor Congress at Toronto in September passed a resolution condemning Chamberlain's fiscal policy.—In **Australia** the Commonwealth Parliament opened on June 28. A combination of the protectionist and labor members brought about a defeat of the Reid ministry, and a new government was formed under the leadership of Mr. Deakin. The program of the new

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ministry includes a white Australia, preferential trade, old-age pensions, anti-trust legislation and commonwealth assumption of state debts. On October 19, the House of Representatives adopted a resolution petitioning Edward VII for home rule for Ireland.—The **South Australian** elections in June resulted in the return of fifteen labor members. When the assembly met in July, the old government was defeated and a new ministry under Mr. Price, the labor leader, was formed. In August the new ministry announced its policy as including reduction of the legislative council franchise to £15, a reënactment of the income-tax law, progressive land taxes, and railway extension. The budget report in September announced a satisfactory state of finances and proposed a graduated land tax. A bill for the compulsory purchase of large estates was introduced in September.—The Daglish ministry in **West Australia** was reconstructed in June; but when the Parliament opened in July the ministry was defeated. In August a new cabinet was formed under the leadership of Mr. Rason.—The **New South Wales** Parliament opened on June 13. Among the measures of domestic legislation proposed in the opening speech were a local government bill, temperance reform, old-age pensions and an amendment to the arbitration act. Reference was also made to the steady improvement in public credit. The budget statement in September showed a favorable financial condition. —The **Queensland** Parliament opened on July 25 and was informed in the opening speech that for the first time in many years the revenue exceeded the expenditure. The budget statement in September announced the stoppage of borrowing for five years and the introduction of a graduated land tax to break up large estates. The appointment of Lord Chelmsford as governor of Queensland was confirmed by the king in July.—The **New Zealand** Parliament opened on June 27. The governor's speech promised an increase in old-age pensions, a local government bill, a restriction of interest on loans, and called attention to the favorable results of the preferential tariff. The budget report showed an increase of the public debt by £2,339,000 over the preceding year. In August a bill was introduced enabling the government to acquire land and erect workmen's dwellings.

V. EUROPE.

GREAT BRITAIN AND IRELAND.—The session of Parliament, which opened in February (see last RECORD, p. 373), continued until August 11, when it was prorogued until October 30. The Balfour government was defeated on the proposition of reducing the Irish land commission (July 20) and on other minor matters, sometimes by tricks of the opposition; the by-elections showed a turn in public opinion against the ministry. The ministry, however, continued to retain office, the premier declaring that the fate of the government should not be decided by chance divisions. The publication on June 14 of a war-office blue-book revealing extensive peculations in stores during the Boer war was the signal for a severe attack on

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the government, but a motion of censure was defeated. A commission of inquiry into the scandals was instituted and began its inquest on July 17. The government's scheme for redistributing the seats in the House of Commons, made public in July, provided roughly for one member for every 65,000 population, reduced the Irish representation by twenty-two seats and added one to Wales, four to Scotland and seventeen to England. The Irish and Liberals at once began a fierce opposition and the government shortly withdrew the bill until the next session. Agitation over unemployment (see last RECORD, p. 374) continued and a bill dealing with the question was passed by Parliament. The act, which is limited to three years, confers on the local government board large powers in regulating the conditions under which applications for work may be entertained and work may be provided. Under the act the board issued an order establishing distress committees of the common council of the city of London and in every metropolitan borough and a central body for the county of London, and fixed the constitution and proceedings of these bodies. The local committees have no power to impose rates except for establishment charges, emigration and the acquisition of land; hence for the operation of the relief works they are largely dependent on charity. Agitation for the appropriation of money for the provision of work continued after the passage of the bill. Parliament also passed a Scottish Church act abolishing the legal situation created by the decision of the House of Lords in the Free Church case (see RECORDS of December, 1904, p. 739; June, 1905, p. 374) and constituting a commission to distribute the property in question between the claimants on principles of justice. A bill excluding destitute aliens and providing for an immigration inspectorship was passed in the closing days. In May the trades dispute bill (see last RECORD, p. 373) was withdrawn from committee by the promoters on the ground that an amendment had been adopted fatal to the measure. On May 12 the women's enfranchisement measure (see last RECORD, p. 374) was talked out on the second reading. In his prorogation speech the king called attention to the Moroccan situation, the conditions in Macedonia and Crete, and the treaty with the ameer of Afghanistan. The speaker of the House, Mr. Gully, resigned in June and was succeeded by Deputy Speaker James W. Lowther, a Conservative. The government decided to appoint a commission on the poor law, the first general inquiry since 1833.—At the Coöperative Congress opened at Paisley in June a motion to join forces with the labor representation committee was defeated by a large majority. The Trade Union Congress held at Hanley in September rejected a motion in favor of compulsory arbitration and voted by an overwhelming majority against tariff reform. The educational policy of the government was condemned.—The celebration of the siege of Perry was the occasion of fierce riots in Londonderry in August. Twenty houses were wrecked in the conflict between the Orangemen and the Nationalists.

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FRANCE.—The Moroccan affair and the separation of church and state were the principal subjects of discussion in the French parliament until its adjournment July 13 for the summer recess. M. Delcassé, minister of foreign affairs, resigned June 6 on account of the opposition to his policy concerning Morocco (see last RECORD, p. 354, and INTERNATIONAL RELATIONS IN AFRICA, *supra*). M. Rouvier took charge of the foreign office *ad interim* and finally decided to retain it permanently, M. Merlou becoming minister of finance. At the urgent request of the premier, the discussion of the Moroccan and other foreign questions was deferred until after the summer recess. The bill for the separation of church and state passed the Chamber of Deputies on July 3, thus concluding the task which had occupied the Chamber since March (see last RECORD, p. 375). By this bill, which is more moderate than that introduced last year by M. Combes, the free exercise of religion and celebration of public worship are guaranteed; the ecclesiastical budget is abolished; public establishments connected with religion are suppressed; members of the clergy are excluded from municipal offices until the expiration of eight years from the passing of the law and are also forbidden to take an active part in politics; pensions and compensations are allotted to priests. The bill was sent to the Senate on July 4 and it is expected that it will become a law by January 1. Several by-elections in May and June resulted in the return of Republicans and Radicals. The budget for 1906, introduced in the Chamber of Deputies early in July, provided for an increase of 67,000,000 francs over the expenditures of 1905. This increase, which will be met by revenue derived from ordinary sources, is caused largely by the new bills just passed, increasing the efficiency of the army and navy, raising the salaries of teachers, reorganizing the poor-law system, and increasing the shipping subsidies.

GERMANY.—After the Easter vacation the Reichstag assembled on May 10 and closed on May 30. The four chief measures before the assembly were an amendment to the treasury law, regulation of military pensions, reform of civil procedure and a bill concerning a railway in the Cameroons. The government was unable to secure the enactment of any of these measures owing to the refusal of the parliamentary factions, including both Conservative groups, to come to a working agreement. Only some minor measures were carried through. The attention of the Reichstag was withdrawn from the regular business before it by discussion of the mining amendment law which was under consideration in the Prussian lower house. The Centre party believed that the time had come to strike a blow at Prussian legislation through action in the Reichstag and thus secure the credit for the initiative in beneficial legislation. A motion was brought in by Herr Hompesch demanding the regulation of mining labor in the form of an amendment to the national commercial laws. This motion was supported by the Radicals and Social Democrats, but was defeated by the opposition of the Conservatives, Free Conservatives, and National Liberals. In view of this parliamentary *impasse*, the Reichstag was adjourned on May 30.—On June 3 the **Prussian Landtag** passed the

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third reading of the mining amendment law providing for obligatory miners' committees and the abolition of deductions from wages for stone and slate-cut.—In June Herr Kunert, a socialist member of the Reichstag, was imprisoned at Halle for declaring in a speech that the German soldiers in China in 1900 were guilty of looting and of abusing women.—The annual Socialist Congress at Jena in September adopted a new scheme of party organization and voted for a political mass strike in case attempts should be made in any state further to restrict the suffrage.—On July 5, Prince von Bülow prohibited the appearance of M. Jaurès at a socialist meeting in Berlin, but the latter's speech was printed in French and German newspapers and large parts of it were read at the meeting.—The Crown Prince and Duchess Cecilia of Mecklenburg-Schwerin were married in June at Berlin.—The **Lippe-Detmold** dynastic controversy (see last RECORD, p. 376) was terminated the last of October by a decision in favor of Count Leopold.

AUSTRIA-HUNGARY.—The **Austrian Reichsrath** began its summer session on June 14. On July 6, the Chamber ratified the commercial treaty with Germany concluded last January. The opposition came chiefly from the Czech Radicals, who saw in the acceptance of the treaty an increased pressure upon Hungary to settle the conflict with the crown, for the reason that an acceptance by Hungary would imply the renewal of the economic compact with Austria until 1917. The autumn session of the Reichsrath opened the last of September. In his opening address the premier suggested that Austria might be compelled to interfere in the internal affairs of Hungary, especially in such matters as electoral reforms. This was met in Hungary by a protest from Count Tisza and the other liberals.—After the defeat of the **Hungarian** government in the February elections (see last RECORD, p. 377) and pending the formation of a new cabinet, Count Tisza continued to act as premier. On May 8 he again offered his resignation to the emperor, who, however, refused to relieve him and his colleagues from their duties. In the latter part of May Count Andrassy was sent to confer with the emperor but failed to arrive at an understanding with the monarch. On May 29 M. Kossuth introduced in the lower chamber a motion recommending that an autonomous customs tariff be drawn up for the defence of Hungary in the event that the renewal of commercial arrangements on a dual basis should prove unwise. The majority party in the Hungarian parliament was ignored by the emperor on June 12 when he finally accepted the resignation of Count Tisza and appointed General Baron Fejervary to succeed him. This only served to widen the breach between the two kingdoms, and the appearance of the Fejervary cabinet on June 21 resulted in considerable disturbance in the lower chamber in the course of which the baron and his colleagues withdrew. Kossuth then moved a resolution of want of confidence in the new government which was adopted by a two-thirds majority. After a heated exchange of views between the majority and the minority, Count Tisza and the Liberal party also left the chamber. It had already been announced that the Parliament was prorogued until September 15. The proceedings in the chamber

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closed with the adoption of a motion pledging the country not to pay its quota to the common expenditure of the dual monarchy and summoning counties and communes to refuse to collect taxes or raise recruits. The Fejervary cabinet received a second blow from the adoption in the House of Magnates of a resolution of lack of confidence. In spite of these demonstrations the emperor steadily refused to discharge the cabinet. Conferences during July between Fejervary and various leaders of the opposition were characterized by an uncompromising attitude on both sides. On July 18, the coalition majority of the lower chamber issued a manifesto attacktng the Fejervary ministry as unconstitutional and urging citizens not to pay taxes or obey the government. Consequently the emperor issued a program, which was taken as an ultimatum to the Hungarians, declaring that the use of the Magyar tongue for military commands was not a matter to be discussed. In August a conference was held between the emperor and the ministers of both countries to consider the crisis. On September 15 the Hungarian Parliament reöpened, and was immediately confronted by a demonstration on the part of the Socialists in favor of universal suffrage. It was asserted that this movement had been instigated by the government as a means of defeating the Kossuth-Apponyi coalition. A petition with half a million signers was handed in to the president and an army of 50,000 workmen appeared before Parliament to appeal in person to the deputies. As the Magyars who insist that their language shall be the only official one are said to be in a decided minority in Hungary, the movement for universal suffrage was regarded as a menace to their plans. The crown however refused to sanction the reform and Premier Fejervary resigned at the opening of the session. On Kossuth's objection to a proposed prorogation until October 10 and his renewed appeal to patriots to refuse to pay taxes or furnish recruits until a constitutional government should be established, the cabinet left the house followed by the entire Liberal party, leaving the Coalition in possession. On September 23, the leaders of the Coalition were summoned to the imperial palace; but there was no relaxation in the determination of each side to keep its ground. A street riot occurred September 27 in Buda-Pest, as the result of rival torchlight processions of the Socialists and the Coalition supporters, and forty or fifty persons were killed. The last of September the committee of the Coalition issued a manifesto to the nation protesting against the emperor's ultimatum as not in conformity with the constitution. Further demonstrations on the part of the Coalition were regularly disturbed by Socialists agitating for universal suffrage. The Hungarian Parliament was prorogued on October 10 until December 19, the announcement of the order being followed in both houses by warm protests against the frequency with which this measure was being used. On October 18 Baron Fejervary was reappointed as premier. He will support universal, direct and secret suffrage, concessions on the language question whereby the Hungarian language will be used in drilling Hungarian regiments; and measures for the benefit of the working and agricultural classes, such as compulsory insurance and free education. The Magyar forces immediately united for a

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campaign against the ministry while the Socialists and Radicals began an agitation in favor of universal suffrage which led to many collisions with the police.

Italy.—The Italian Senate opened on May 9 and the Chamber May 11. The debate on the budget occupied the greater part of the session. In May, the minister of marine introduced a bill designed to double the navy within a few years, and a proposal for the establishment of military ports along the Adriatic at Venice, Ancona, Brindisi and Tarentum. The last week in May, the government announced an arrangement with the Southern Railway Company by which the management will pursue a course relative to wages and rates similar to that pursued by the government lines. On June 13, the minister of war, General Pedotti, declared his intention of submitting a bill for the reduction of military service to a term of two years. After passing navy and army estimates, the Chamber adjourned July 2.—Harmony between the Italian government and **the Vatican** was further promoted by an encyclical issued by the pope on June 19, in which he discussed the adaptability of the Catholic church to the civil situation and granted the clergy full liberty to participate in public affairs, though urging them to refrain from party strife. The direct result of this letter was seen on July 3, when the combined force of Clericals and Conservatives defeated the Liberals in the municipal elections in Rome by a majority of over 3000 in a total vote of 17,000.

RUSSIA.—Agitation for political and economic reform, taking the form of strikes and outbreaks of violence, continued to disturb public order. On May 5 a second zemstvo congress opened at Moscow. On account of the police intervention in public meetings it was held at a private residence. The congress unanimously voted for universal suffrage as the basis for the election of an assembly; it also approved a parliament of two houses modeled on the French system. On May 19 the czar issued a manifesto fixing October 17 as the date for the convocation of the Zemsky Sobor. Five days later the professional bodies throughout the empire formed a national organization for liberal propaganda. Popular feeling against the government was strengthened by an order on June 6 forbidding the delegates to a pan-Russian zemstvo congress to hold their meetings. Two weeks later, however, the czar received a deputation from the zemstvos and doumas which presented a petition in favor of peace and a representative body. In July the greatest liberal congress yet held was opened in Moscow with more than two hundred and fifty delegates of a widely representative character. This congress denounced the Bulighin scheme for a national assembly, announced on July 7, which was substantially that later adopted by the czar. The congress objected to a suffrage based on class distinctions and adopted a constitutional program appealing to the people to resist oppression. Several papers were suspended for their attitude toward the appeal; and the governor-general of Moscow, because of his tolerant position, was replaced by M. Durnove; the houses of the president and secretary of the congress were broken open by the police and all documents relating to the congress were seized. On August 1 a grand minis-

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terial meeting under the presidency of the czar was held at Peterhof to reconsider the Bulighin scheme before its final promulgation. Minor changes were made, but no concession was made to the demand for guarantees for the rights and liberties of the subject. On August 19 the czar published his manifesto instituting a **national consultative assembly**, to be summoned not later than January, 1906. The perfection of the organization was left to the emperor, and reservations were made in regard to the participation of Finland in the scheme. The czar made no reference to the existing exigencies but gave the credit of such an assembly to his ancestors. The proposed assembly was to consist of members chosen by the people of Russia in accordance with the election regulations; it was to meet and dissolve at the will of the czar; it was to enjoy the free expression of opinion in matters within its competence and exercise all the functions of a consultative body. The electoral franchise was extremely complex; the working classes and ordinary middle class of the towns were excluded; the representatives of the peasants were to be chosen indirectly; the direct ballot was to be in the hands of wealthy landlords, land-owning clergy and capitalists. Poland was to have additional members, placing it on an equality with the rest of Russia. The scheme was far from satisfactory to the great majority of the revolutionists and agitation continued for a more extended suffrage. On September 25, a congress of the zemstvos and other bodies met in Moscow, and after a heated debate resolved that although the proposed national douma was not a truly representative body, it was necessary to participate in its proceedings and work for the improvement of its organization and the extension of its powers. The Zemstvoists formulated a platform demanding the personal guarantees of a bill of rights. On October 30 the czar, acting under pressure of violent agitation, issued a **new charter** announcing real inviolability of person, freedom of conscience, speech and association, extending the right to vote in the coming douma elections to those classes excluded by the above constitution, and establishing the rule that no law should be enforced without the approval of the national assembly. Count Witte was immediately called to form a cabinet of responsible ministers.—During this period of political agitation **revolutionary disturbances** continued. On May 23 the governor-general of Baku was killed by a bomb and the province fell into a state of disorder. The disturbances at Warsaw were so extensive that semi-martial law was proclaimed on June 1. During the latter part of the same month conditions approaching civil war prevailed in Trans-Caucasia. Reports of strikes, demonstrations and agrarian disorders poured into St. Petersburg from Poland and the Caucasus as well as from other parts of the realm. On June 23 a pitched battle between armed workmen and the troops was fought at Lodz and martial law was proclaimed there. The strike situation at Odessa was aggravated on June 28 by the arrival of the battleship "Kniaz Potemkin" which had fallen into the hands of mutineers. On shore there was a general destruction of life and property in which Armenians, Tartars, Persians and Kurds as well as other discontented factions participated. The disorder was quelled by the

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government and twenty-four ringleaders were hanged. The mutineers left Odessa and steamed to Theodosia in the Crimea, whence they issued a manifesto to the powers, declaring Russia to be in a state of civil war, and an appeal to the crews of other war vessels to join in the insurrection. Failing to secure supplies and additional support, although the Black Sea fleet was permeated by a spirit of mutiny, the "Kniaz Potemkin" surrendered to the Roumanian authorities at Constantza on July 8, on condition that the members of the crew should be sent to any frontier they chose. The vessel was returned to Russia. A torpedo-boat accompanying the "Kniaz Potemkin" returned to Sevastopol where the crew declared that they had not mutinied but had been compelled to follow the insurgents. The "Georgei Pobiedonosets," another battleship of the Black Sea fleet, was for a time in the hands of mutineers, but they surrendered on July 2 and forty-five sailors were shot. On July 11 the chief of the Moscow police was murdered by a petitioner. On July 23 there were serious riots at Nijni Novgorod, which resulted in the death of a large number of women and students. In August the Baltic provinces were the scene of grave disorder; the upper classes left the country in large numbers, and the government had to appoint an extraordinary commission to draft measures for restoration of peace. At the end of October disturbances still prevailed in these provinces and in the Caucasus and Poland. The imperial concessions of October 30 did not have the anticipated effect of establishing order in the empire. Massacres of the Jews broke out with renewed atrocity, reactionaries instigated revolts, and sailors and soldiers in large numbers mutinied. —Some important administrative measures were published during the period under review. An imperial rescript of May 16 so modified the restrictions existing in nine of the western governments of Russia as to give Poles and Catholics greater freedom in the acquisition of farming ands and other property and to allow the schools to give instruction inl the Polish and Lithuanian languages. The decree was partially nullified by the retention of the old school administration and the former instructors. Further concessions were made in June by a decree permitting the introduction of Catholic instruction into the schools and a wider use of the Polish language, although Russian was retained as the official tongue. This decree further provided that freedom of movement should be allowed between Poland and the adjacent governments; and that the governor-general of Poland might introduce zemstvo institutions and municipal self-government, reform the administration of justice and arrange for the impartial sale of crown lands. On June 5 an imperial ukase announced that all matters connected with crime and public safety were placed under the control of the under secretary of police, and a second ukase announced the appointment to this office of General Trepoff, assistant minister of the interior. An income-tax commission met the first week in June and passed resolutions declaring an income tax desirable and feasible as a supplement to the present direct tax.—Admiral Birileff was appointed minister of marine early in July and was charged with the duties of rebuilding the navy and reforming the naval administra-

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tion. September 6 Rear Admiral Nebogatoff and the four commanding officers of the ships surrendered in the Sea of Japan were dismissed from the service, and dates were set for the trial of these and other officers.—**Finland** also participated in the revolutionary disturbances. Many bombs were thrown in Helsingfors during September and a large store of arms was discovered in an island in the Gulf of Bothnia. A body of 800 delegates from all parts of Finland, assembled to discuss the political situation, was dispersed by troops at Helsingfors on September 13. The czar threatened martial law and sent strong reinforcements to maintain order. He refused to grant the request of the Finnish Senate for an extraordinary session of the Diet but decided that the Finnish and Swedish languages might be used in the higher administrative departments of Finland. On September 27, thirteen members of the Finnish Senate were arrested at Helsingfors on charges of high treason.

NORWAY AND SWEDEN.—In the latter part of May, King Oscar resumed control of affairs (see last RECORD, p. 380). On May 18, the Norwegian Storthing, by an unanimous vote, adopted the bill for a separate consular service, to be placed under the direction of a Norwegian government department, the relations of its members to the general diplomatic service to be determined by royal decree. On May 27, King Oscar refused to sanction this consular law. Thereupon the cabinet ministers resigned, but the king refused to accept their resignations on the ground that it was impossible to form a new cabinet. On June 7, the ministers presented their resignations to the Storthing. Setting aside the prerogative of the crown, which was declared to have lapsed, the Storthing accepted the resignations, declared that the union of the two countries under one king was dissolved and asked King Oscar to permit a prince of his house to become king of Norway. Two days later, the Norwegian Council of State reorganized the government along the lines planned before this declaration of independence and called upon the army to pledge its allegiance to the new authorities. Minister of State Loevland was made foreign minister, and a new Norwegian flag was hoisted, divested of the emblem of union. On June 14, the king addressed a letter to the president of the Storthing denying that his veto of the consular law was unconstitutional. At the same time, the Swedish Council refused to recognize Norway's provisional government. On June 21 the Riksdag was opened by the king. A bill was presented by the government asking for authority to negotiate with the Norwegian Storthing with a view to the constitutional solution of the questions involved in the separation. On June 27 this bill was referred in each house to a special committee. The Senate committee consisted of nine anti-government and three pro-government members and the House committee of five pro-government, five anti-government, and two independent members. On July 28, the Norwegian Storthing accepted the provisional government's proposal for a referendum on the question of dissolution of the union, and August 13 was fixed as the date for its submission to the people. On July 25, the Swedish government's proposal for an immediate negotiation with Norway was rejected by the special committee

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of the Riksdag and the ministry resigned. The committee recommended, however, that the will of the Norwegian people be ascertained clearly and categorically before negotiations were entered into. On August 2, a coalition ministry was formed under the premiership of Herr Lundeberg, chairman of the special committee. On August 11, King Oscar again temporarily turned over the control of affairs to the crown prince on the ground of physical inability to cope with the situation. The referendum was taken in Norway on August 13, resulting in 368,200 votes for dissolution and 184 against. The Storthing met August 21, and four days later, as a result of its request to the Swedish authorities for coöperation in the matter of dissolution, delegates were appointed in each country to discuss the matter in joint conference. The conference opened its session August 31 at Karlstad. A peaceful adjustment was rendered especially difficult by a dispute over the maintenance of Norwegian fortifications on the frontier. On September 23 an agreement was finally reached by which a **peaceful separation** was insured. The agreement provided for the submission of future disputes to the Hague tribunal, with the novel provision that this tribunal should have power to decide whether a point at issue was of sufficient importance to justify either country in refusing to submit the issue to arbitration. It provided also for the establishment of a neutral zone along the southern frontier between the two countries and for settlement of the questions of reindeer pasturage, transit traffic and common waterways. The Swedish Riksdag met in special session on October 2 to deal with the question of dissolution. The king was not present nor any member of the royal family nor the diplomatic body. The speech from the throne was read by Premier Lundeberg; the question of separation was referred to a special committee; and the session adjourned. In October the Storthing and Riksdag agreed to the Karlstad convention. On October 16 the latter body repealed the union with Norway, and two days later the session was closed by King Oscar. On October 31 the Storthing adopted the government's proposal that it be vested with full power to negotiate with Prince Charles of Denmark for his acéptance of the crown of Norway on condition that the matter be finally submitted to the people. A motion to submit a referendum on the form of government was rejected.—Elections for the Swedish Second Chamber, concluded October 1, resulted in several Socialist gains, raising the number of their seats to 14. The election turned largely upon the extension of the franchise and proportional representation. The First Chamber as constituted will be in favor of the latter, but the new Second Chamber will be opposed to it.

MINOR EUROPEAN STATES.—The elections for the Second Chamber of the States General of **Holland** in June returned 52 Anti-ministerialists and 48 Ministerialists. The result was the resignation of Dr. Kuyper on July 3. The party divisions of the Anti-ministerialists delayed the formation of a new cabinet until August 14, when Mr. Demeester was selected as premier. The States General opened on September 19. The speech from the throne declared the conditions of the country and the colonies to be satisfactory and proposed a number of new laws and an extension of

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the sources of revenue to meet new expenditures. On September 27 the premier announced to the chamber that a revision of the clauses of the constitution relating to the electoral system would be proposed during the term of the present legislature. The budget laid before the States General in September announced a deficit and proposed an increase in the tax on capital and incomes.—In June the **Belgian** Chamber voted in favor of treaties of arbitration concluded with Denmark, Sweden, Switzerland, Spain and Greece, and the senate adopted the treaty of commerce with Germany. In May the communal council of Antwerp accepted the government's scheme for such an extension of the port as to make it the first port of the world. A reorganization of the defenses of Antwerp was also agreed on.—On July 10 the parliament of **Iceland** opened for the first time since the extended measure of self-government was bestowed upon the island. The session was opened by the resident minister, M. Haffstein, and the speech from the throne announced that internal Danish politics should no longer involve changes in the government of Iceland.—The Cortes of **Spain** was convoked on June 14. On a motion of want of confidence, the Villaverde ministry was defeated on the 20th and the king invited the Liberal leader, Señor Monteros Rio, to form a cabinet. On August 19 a decree of dissolution was issued fixing the election of the deputies for September 10 and that of the senators for September 25. The elections for the Chamber resulted in the return of 140 Ministerialists, 64 Conservatives, 23 Republicans, six independents and three Carlists. The senatorial elections returned 109 Liberals, 52 Conservatives, four independents, two Carlists and two Republicans. The Cortes met on October 11. The king's speech laid stress on the excellent relations between Spain and the Vatican, and announced the introduction of tariff and reform measures. A ministerial crisis caused the reconstruction of the cabinet on October 30, giving more power to the Liberals. There was severe economic distress during the summer and autumn, and the government asked for extraordinary credits for relief work.—In **Portugal**, the Cortes opened on August 16. The policy of the government was announced as economic and financial reform. On August 24 the Chamber of Deputies voted confidence in the government.—In **Greece**, in the latter part of May, the Chamber took up the discussion of the budget, which, on its presentation by M. Gannarakis, minister of finance, was found to contain a deficit of 7,000,000 drachmas. A series of projects was submitted whereby expenditure might be reduced. The first week in June a bill was passed reducing the number of deputies to about 176, a diminution of 60 members. On June 13, the premier, M. Delyanis, was murdered as a result of his restrictions on gambling-houses. The king provisionally appointed M. Gannarakis, minister of finance, to fill the vacant office of minister of the interior. The new cabinet was announced June 30 with M. Rolli as premier, only one of the previous ministers being retained. M. Rolli at once undertook the task of covering the deficit and, by a revision of the tariff and a stricter system of accounts, was accomplishing something during the summer. The Chamber closed its session July

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29, after passing measures intended to secure a more efficient financial régime.—The revolution continued in **Crete** (see last RECORD, p. 355), and the insurgents became involved with foreign detachments acting under orders to prevent the union with Greece. The encounters were chiefly with Russian, British and Italian troops. Several important points were seized by the revolutionists and many Mohammedans fled to Asia Minor. In July, the consuls gave the insurgents fifteen days in which to lay down their arms, and in August martial law was extended over large sections of the island, but disorders continued. On September 16, the Cretan Chamber resolved upon the convocation of a constituent assembly to meet about eight months later to revise the constitutional charter. The Greek government, while maintaining an attitude of neutrality satisfactory to the powers, has called attention to the failure of their policy in Crete.—On May 17 the **Servian** Skupshtina was convoked by ukase to discuss loans and commercial treaties with Germany and Montenegro. Failing to secure a majority in the vote for president of the assembly, the ministry was forced to adjourn for a time. General Grovitch made an unsuccessful attempt to form a new cabinet, and the king called on M. Stoyanovitch, leader of the independent radicals, who organized a ministry in June. New elections for the Skupshtina were held on July 23, but the insufficient majority obtained by the government led to the resignation of the Stoyanovitch ministry on August 12. The extraordinary session closed on August 19.—On July 21 an attempt was made to assassinate the Sultan of **Turkey**. In the ensuing investigation other plots were unearthed.

VI. ASIA AND AFRICA.

Owing to the capture of Sanaa (Yemen) from the Turks by the **Arabian** insurgents, the principal sheik of Yemen went to Constantinople during May to negotiate for autonomy in return for tribute (see last RECORD, p. 383). At the close of the RECORD, the position of the sultan's troops in the rebellious provinces was precarious.—A British commercial commission completed a tour of investigation in **Persia** in May and reported the country to be in a discontented and lawless state. Russian activity was found to be increasing in the south, where the Russians were offering to loan money to traders.—The vesting of the independent control of the army in **India** in the hands of General Kitchener led to the resignation of Lord Curzon as viceroy on August 12. The Earl of Minto was chosen as his successor. In spite of strong protests from the Bengalese, a proclamation was issued from the Indian Office on September 1 dividing Bengal into two provinces on account of the difficulty of administering so large a province.—In **China** a decree was issued May 1 modifying criminal procedure and abolishing the punishment of slicing to death and also the punishment of the family for the crime of a member. In July an edict was issued dispatching missions abroad for the purpose of studying foreign political institutions. The project was delayed for a time, however, by the explosion of a bomb in the midst of a mission on July 28. September 15 a decree abolished the

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old system of examination for degrees under which candidates for official positions were required to be proficient in Chinese classics. In future officials will be recruited from those educated under a modern system in schools established throughout the country. The last of September a plan was drawn up for the complete reorganization of the army by which China will have a force of 500,000 men by 1910.—In **Japan** the news of the terms of the treaty with Russia was received with violent demonstrations of disapproval. Martial law was declared in Tokio and at other points but removed by October 10. There was a serious anti-peace riot at Yokohama on September 13 and military force was called in. Attempts to force the ministry to resign were unavailing.—In July the Japanese took radical measures in **Korea** to stop brigandage and about sixty persons were hanged in less than a week in the village of Taikiu. A convention between Korea and Japan opening Korean coastwise and inland waters to Japanese vessels was published in Tokio the last of August. The seizure of fifty square miles of lands and dispossession of villagers in Korea caused several serious anti-Japanese riots in September.—The German government in May terminated the agreement by which the entire cost of the administration of the **Marshall Islands** should be borne by the Jahuit company in return for certain concessions. This step was taken on account of the complaints of England that the Anglo-German agreement with regard to the islands had been violated.—A Hottentot uprising took place in **German Southwest Africa** during the summer, which cost Germany (up to July 21) 1100 lives and $12,500,000. At the close of August it was announced that the country was sufficiently pacified to allow the substitution of civil for martial law. On October 3, Andrew de Wet, nephew of General de Wet, and four other Boers were arrested at Windhoek and accused of plotting the overthrow of German rule and the establishment of a Boer republic.—Disturbances were also prevalent in **German East Africa** during the summer.—The **Cape Colony** ministry sustained several severe defeats during the summer but on ordinary occasions was able to retain a working majority. In August the Parliament was prorogued to December 8.—The **Rhodesian** legislative Council met in May. The treasurer announced a deficit in the revenue and proposed an increase in customs duties.—The strength of the Ministerialists and the opposition being evenly balanced in the **Natal** assembly, the premier, Sir G. M. Sutton, resigned in May and a coalition cabinet with Mr. Smythe as leader was formed. In May the Natal government gave notice of the abrogation of the customs convention in order to force a fresh conference of the South African colonies with a view to a revision of the convention.—May 20 Lord Selborne was sworn in as governor of **Orange River** colony and commander-in-chief. A representative delegation to Lord Selborne in June declared that nothing short of a responsible government would satisfy the colony.—On May 23 Lord Selborne (see last RECORD, p. 884) was sworn in as governor of the **Transvaal** and high commissioner. The legislative council opened its sessions at Pretoria on July 7, but in view of the grant of representative government (see last

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RECORD, p. 384) important measures were left over for the consideration of the elective assembly. A Boer congress composed of 180 delegates, held in Pretoria during July, resolved that Boer participation should be conditioned on a modification of the constitution. There is great opposition among the Boers to the new constitution. A session of the Intercolonial Council held at Pretoria in May passed measures providing relief for burghers, restoring them to their homes and settling claims for war losses. The Transvaal was seriously disturbed by Chinese deserting from the mines and committing grave crimes.—**Morocco** was disturbed by internal disorder as well as by international complications during the summer. On June 8 the maghzen decided to send a thousand men from Tangier to Ujda on account of serious insurrections. On July 9 a battle with the pretender forced him to retreat toward the west and most of the tribes near the Algerian frontier joined the army of the sultan.

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